

ALABAMA LAWS
(and Joint Resolutions)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
REGULAR SESSION, 1991
VOL. 2



GUY HUNT, Governor
JIM FOLSOM, JR., Lieutenant Governor
RYAN deGRAFFENRIED, President Pro-Tem of the Senate
JAMES S. CLARK, Speaker of the House
JAMES M. CAMPBELL, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
GREG PAPPAS, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1991 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Billy Joe Camp
Secretary of State

Good laws lead to the making of better ones; bad ones bring about worse. As soon as any man says of the affairs of the State 'What does it matter to me?' the State may be given up for lost.

Jean Jacques Rousseau
Social Contract

The public's right to know about their government's activities is a sacred one protected by the United States Constitution, the Alabama Constitution, and the Code of Alabama.

But that right carries a responsibility. If citizens do not actively participate in and monitor the business of government, then as the eighteenth-century French philosopher Rousseau pointed out, the very existence of the free state is in jeopardy.

In keeping with that belief, Alabama law requires that the Secretary of State publish and make available all the acts of the Alabama Legislature. Contained within this volume are the acts passed in the 1991 regular session. Many people worked to make this volume possible including McDowell Lee, Secretary of the Senate; Greg Pappas, Clerk of the House of Representatives; Joyce Bishop and Julie Saint, enrolling and engrossing clerks; Dodie Pappanastos and Helen Thorington, technical proofreaders; Dannie Shockley, Recording Secretary for the Governor; Louis Greene, Director of the Legislative Reference Service; and Hannah M. Bates and Rosemary Judkins of the Secretary of State's office.

Freedom's best protection is an informed citizenship; therefore, we take pride in making these new laws accessible to you.

Billy Joe Camp
Secretary of State

ALABAMA LAWS
And Joint Resolutions
REGULAR SESSION, 1991

Act No. 91-406

H.J.R. 125 — Rep. Smith (C)

HOUSE JOINT RESOLUTION

**COMMENDING BARRY BAKER OF CLANTON, ALABAMA,
FOR OUTSTANDING ACHIEVEMENT.**

WHEREAS, in a desire to recognize young Alabamians of outstanding achievement, the Legislature of Alabama notes the accomplishments of Chilton County High School senior Barry Baker of Clanton, Alabama; and

WHEREAS, the son of Carl and Ann Baker, Barry captured top state honors in his weight classification at the Alabama High School State Drug-Free Power Lifting competition held February 16, 1991, at Eufaula High School; with a three-lift total of 1,275 pounds, he beat the second-place finisher by almost 100 pounds; and

WHEREAS, Barry Baker, who placed second in this event last year, has been involved in weight lifting for the past six years, and works out daily at school and at the YMCA; his best event in power-lifting competition is the bench press in which he lifted 375 pounds; and

WHEREAS, not only is Barry Baker an outstanding athlete, but excels also in academics and gives generously of his time and talents through involvement in many local charities, benefits and church activities; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Barry Baker of Clanton, Alabama, and do further direct that he receive a copy of this resolution, executed in praise and with sincere best wishes for every future success in life.

Approved July 24, 1991

Time: 4:18 P.M.

Act No. 91-407

H.J.R. 129 — Rep. Clay

HOUSE JOINT RESOLUTION

COMMENDING ROBERT E. LAWSON FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT AND SERVICE.

WHEREAS, the Legislature of Alabama, in highest commendation, notes the many professional accomplishments and long years of service to education by Robert E. Lawson of Sylacauga, Alabama; and

WHEREAS, a native of Marion, Alabama, Mr. Lawson is a graduate of Alabama State University with a B.S. degree, holds a Masters degree awarded by Fisk University, and has completed additional post graduate studies at Columbia University, the University of Alabama, Auburn University and the University of Michigan; and

WHEREAS, Mr. Lawson, who has served with dedicated distinction as principal of East Highland High School in Sylacauga for thirty-three years, has greatly contributed to education on the state and national levels, as well, through membership and in leadership positions with numerous professional organizations; and

WHEREAS, he further is the recipient of a number of awards bestowed in honor of professional achievement and community involvement, and is a candidate for the degree of Doctor of Laws, Honoris Causae, to be conferred by Livingston University, where he serves as a member of the Board of Trustees; and

WHEREAS, Robert E. "Bob" Lawson is indeed one of our state's most prominent educators, and his dedicated efforts and long years of service are worthy of public acknowledgement and acclaim; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Robert E. Lawson of Sylacauga, Alabama, for outstanding service to education and community, and do further direct that he receive a copy of this resolution of sincere tribute to his many outstanding accomplishments.

Approved July 24, 1991

Time: 4:19 P.M.

Act No. 91-408

H.J.R. 131 — Reps. Harper, Zoghby, Rockhold,
Turner, Kennedy, Box, Clark (W),
Gaston, McMillan, Penry,

Buskey (JE), Kvalheim,
 Anderson, Barnes, Beasley,
 Biddle, Black (L), Black (M),
 Blakeney, Bowling, Bryant,
 Bugg, Burke, Buskey (JL),
 Butler, Cagle, Campbell, Carns,
 Carothers, Carter, Clark (J),
 Clay, Cosby, Crow, Cullins,
 Curry, Dolbare, Drake, Escott-
 Russell, Flowers, Ford,
 Freeman, Fuller, Gaines,
 Goodwin, Grayson, Gullatt,
 Hall, Hamilton, Hammett,
 Haney, Harvey, Hawkins,
 Haynes, Higginbotham, Hill,
 Hogan, Holladay, Holley,
 Holmes, Hooper, Johnson,
 Knight, Laird, Layson, Letson,
 Lindsey, Mathis, McClain,
 McDaniel, McDowell, McKee,
 Melton, Mikell, Millican,
 Morrow, Morton, Newman,
 Newton (C), Newton (D),
 Parker (P), Parker (T), Payne,
 Perdue, Petelos, Poole, Powell,
 Rich, Richardson, Rogers (F),
 Rogers (J), Sanderford,
 Sanderson, Smith (C), Smith (R),
 Spratt, Starkey, Thomas,
 Turnham, Venable, Walker,
 Warren, White, Williams, Willis

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF DONALD GENE PARMER OF MOBILE, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the lamentable and untimely death of Donald Gene Parmer of Mobile, Alabama, on April 27, 1991, at the age of 59 years; and

WHEREAS, a native and lifelong resident of the Mobile area, Mr. Parmer was a prominent businessman and civic leader who greatly contributed to the good of both his profession and the community; and

WHEREAS, Donald Parmer, founder and owner of Serenity Memorial Gardens and Funeral Home of Mobile, also was founder and owner of Lawn Haven Memorial Gardens and the Gulf Coast

Vault Company; he was a member, past president and former longtime secretary-treasurer of the Association of Alabama Cemeteries, which, in 1990, selected Mr. Parmer as Cemeterian of the Year; and

WHEREAS, he further was a member of the Alabama Funeral Directors Association and was instrumental in the establishment of the Allied Cemetery and Funeral Assurance Group, a consumer protection association of Alabama firms dealing in advance-of-needs cemetery and funeral home arrangements; and

WHEREAS, in addition to his many professional and business-related responsibilities, Mr. Parmer extended his activities to include civic and community leadership through participation in legislative affairs; as a member of the Mobile County Judicial Committee; and as a member and supporter of numerous civic organizations, including the Greater Mobile Area, Tillman's Corner and Bayou La Batre Chambers of Commerce; and

WHEREAS, in the death of Donald G. Parmer, the Mobile Area citizens and those of our state have indeed suffered a deep and grievous loss; his many contributions to their communities, however, stand as a lasting tribute to his lifetime of commitment in service to others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Donald Gene Parmer of Mobile, Alabama, and extend deepest sympathy to his wife, Mrs. Sue Parmer; his son, Donald G. Parmer, Jr.; mother, Mrs. Etna Parmer Raymond; sister, Mrs. Glenda Bullard; to his stepsons, Duane and Mark McGowin; and to other family members, whose sorrow we sincerely share and for whom a copy of this resolution shall be provided.

Approved July 24, 1991

Time: 4:20 P.M.

Act No. 91-409

H.J.R. 138 — Reps. Morrow, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J),

Clark (W), Clay, Cosby, Crow,
 Cullins, Curry, Dolbare, Drake,
 Escott-Russell, Flowers, Ford,
 Freeman, Fuller, Gaines, Gaston,
 Goodwin, Grayson, Gullatt, Hall,
 Hamilton, Hammett, Haney,
 Harper, Harvey, Hawkins,
 Haynes, Higginbotham, Hill,
 Hogan, Holladay, Holley, Holmes,
 Hooper, Johnson, Kennedy,
 Knight, Kvalheim, Laird, Layson,
 Letson, Lindsey, Mathis,
 McClain, McDaniel, McDowell,
 McKee, McMillan, Melton,
 Mikell, Millican, Morton,
 Newman, Newton (C), Newton (D),
 Parker (P), Parker (T), Payne,
 Penry, Perdue, Petelos, Poole,
 Powell, Rich, Richardson,
 Rockhold, Rogers (F), Rogers (J),
 Sanderford, Sanderson, Smith (C),
 Smith (R), Spratt, Starkey,
 Thomas, Turner, Turnham,
 Venable, Walker, Warren, White,
 Williams, Willis, Zoghby

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF ROY LEE MULLINS OF RUSSELLVILLE, ALABAMA.

WHEREAS, a source of deep and abiding sorrow to the Legislature, the citizens of Alabama and Mississippi, and the nation is the lamentable and untimely death of Roy Lee "Chucky" Mullins of Russellville, Alabama, on May 6, 1991, at the age of just 21 years; and

WHEREAS, a former football star at Russellville High School and defensive back at the University of Mississippi, Chucky Mullins was paralyzed from the neck down, following injuries suffered in the Ole Miss-Vanderbilt game on October 28, 1989; and

WHEREAS, following 114 days in intensive care, further long-term hospitalization, and rehabilitation therapy in Birmingham, Chucky Mullins had returned to the University of Mississippi when complications from his injuries led to his death, thereby ending his resolve to complete his education and to pursue a career in coaching; and

WHEREAS, Chucky Mullins was indeed an outstanding athlete and a young man of great strength, courage and determination who was an inspiration to all those whose lives he touched; and

WHEREAS, despite many personal adversities over the years, Chucky Mullins' outlook on life remained positive and his optimism, even in the face of affliction, was absorbed by those around him; and

WHEREAS, Roy Lee "Chucky" Mullins was a very special young man, and his death has left a deep void in the life of the community, and in the hearts of all those privileged to his friendship, love and sincere concern for their happiness and well-being; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are grievously saddened by the death of Roy Lee "Chucky" Mullins of Russellville, Alabama, and extend deepest sympathy to his loving guardians, Carver and Karen Phillips; to their children, Lamar and Keshia; and to his friends and classmates at Russellville High School and the University of Mississippi, whose sorrow we share and, for whom, copies of this resolution shall be provided.

Approved July 24, 1991

Time: 4:21 P.M.

Act No. 91-410

H.J.R. 295 — Reps. Ford, Bugg, Smith (R)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF BOBBY LEE AUSTIN OF GADSDEN, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the untimely death of Bobby Lee Austin of Gadsden, Alabama, on May 30, 1991, at the age of just 38 years; and

WHEREAS, a native of Calhoun County and a graduate of Oxford High School, Mr. Austin was a former member of the Oxford Police Department for five years before moving to Etowah County to join the family trucking business and was serving, at the time of his death, as vice president of Austin Transportation and as president of Gadsden Warehousing; and

WHEREAS, Mr. Austin, however, in addition to his many business interests and responsibilities, was a prominent civic leader

who worked tirelessly to the good of the community and in dedicated support of the area's growth and economic development; and

WHEREAS, he was most particularly active in the Gadsden-Etowah Chamber of Commerce where he had served on the Committee for Riverfest; as a member of the board of directors for the past three years; and was in his second term as vice president of Governmental Affairs which includes chairmanship of the Airport Committee and, in which capacity, he aggressively lobbied for the selection of the Etowah-St. Clair Airport site as the location for the proposed international airport; and

WHEREAS, in recognition of his many outstanding accomplishments and community contributions, Mr. Austin was the recipient of many honors and accolades, including the Outstanding Police Officer Award, Marcus Whitman Award for Alabama's Outstanding Person in Transportation, Small Business Award and the 1990 President's Award of the Gadsden-Etowah Chamber of Commerce; and

WHEREAS, Bobby Austin was indeed one of Gadsden's most enthusiastic boosters, who in optimism, dedication and love of community, sought always to serve to the good and well-being of the Gadsden and Etowah County areas of the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the lamentable and untimely death of Bobby Lee Austin of Gadsden, Alabama, and extend our deepest and most heartfelt sympathy to his wife, Vickey Austin; daughter, Christine Evan Austin; to his mother, Mrs. Jackie Austin; and to other family members, whose sorrow we sincerely share, and for whom, a copy of this resolution shall be provided.

Approved July 24, 1991

Time: 4:22 P.M.

Act No. 91-411

H.J.R. 297 — Rep. Parker (P)

HOUSE JOINT RESOLUTION

COMMENDING THE HARTSELLE HIGH SCHOOL TIGERS
ON THE 1991 STATE CLASS 5A BASEBALL CHAMPIONSHIP.

WHEREAS, the Legislature of Alabama most heartily congratulates and commends the Hartselle High School Tigers who, in defending their 1990 State Baseball Title, captured the 1991 State Class 5A Championship to make it two-in-a-row for Hartselle High; and

WHEREAS, under the talented direction of Coaches William Booth and Bob Young, the 1991 Tigers outscored their opponents 30-6 and, when added to the Tigers 35-6 1990 record, Hartselle High crossed home plate 65 times in the past two seasons while holding their opponents to just 11 runs; and

WHEREAS, on the way to their back-to-back State Championships, the Tigers also won the 1990 Morgan County and Area Titles and, this season, were once again the Area Champs, the county tournament having been rained out; and

WHEREAS, the Hartselle High School State Champions, each of whom contributed greatly to the team's fantastic season, are John Peek, Jason Yocom, Josh Hillis, Stewart Wakefield, Keith Halbrooks, Mack Parker, Jeff Young, Jeff Belcher, John Hardison, Brian Wallace, Brandon Watson, Blake Tapscott, Mike Connor, Eric Stinson, Jay Hobbs, Jason Drake, Jay Chittam, Mike McGill, Matt Stephenson and Steve Woodard; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most heartily congratulate and commend Hartselle High School on their two consecutive State Class 5A Baseball Titles, and do further direct that copies of this resolution be provided for appropriate presentation and school display.

Approved July 24, 1991

Time: 4:23 P.M.

Act No. 91-412 H.J.R. 298 — Reps. Freeman, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell,

Flowers, Ford, Fuller, Gaines,
 Gaston, Goodwin, Grayson,
 Gullatt, Hall, Hamilton, Hammett,
 Haney, Harper, Harvey, Hawkins,
 Haynes, Higginbotham, Hill,
 Hogan, Holladay, Holley, Holmes,
 Hooper, Johnson, Kennedy,
 Knight, Kvalheim, Laird, Layson,
 Letson, Lindsey, Mathis, McClain,
 McDaniel, McDowell, McKee,
 McMillan, Melton, Mikell,
 Millican, Morrow, Morton,
 Newman, Newton (C), Newton (D),
 Parker (P), Parker (T), Payne,
 Penry, Perdue, Petelos, Poole,
 Powell, Rich, Richardson,
 Rockhold, Rogers (F), Rogers (J),
 Sanderford, Sanderson, Smith (C),
 Smith (R), Spratt, Starkey,
 Thomas, Turner, Turnham,
 Venable, Walker, Warren, White,
 Williams, Willis, Zoghby

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM F. ARENDALE FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT AND SERVICE TO THE UNIVERSITY OF ALABAMA IN HUNTSVILLE.

WHEREAS, William F. Arendale has had a long and distinguished career in the field of chemometrics and the measurement process; and

WHEREAS, he graduated with the Ph.D. degree in chemistry-physics from the University of Tennessee in 1953; and

WHEREAS, his industrial career included 13 years with Thiokol Chemical Corporation from 1951 to 1964, being continually promoted to higher levels of responsibility to the Director of Research; and

WHEREAS, he has served as a technical consultant to a number of legal firms concerning propellant patent infringements; and

WHEREAS, his professional memberships include the American Chemical Society, the American Physical Society, the Optical Society of America, Fellow of the American Rocket Society, Associate Fellow of the American Institute of Aeronautics and Astronautics, Fellow of the American Association of Advancement of Science and the American Defense Preparedness Association; and

WHEREAS, he joined the University of Alabama in Huntsville in 1964 as Assistant Director of the then newly established Research Institute; and

WHEREAS, he served as Director of the Division of Natural Sciences and Mathematics at the University of Alabama in Huntsville from 1966 to 1970, responsible for developing programs in biology, chemistry, earth sciences, mathematics and physics; and

WHEREAS, his academic career spanned 26 years, culminating as Professor of Chemistry at the University of Alabama in Huntsville; and

WHEREAS, he always had time to help and to share his knowledge with both undergraduate and graduate students; and

WHEREAS, he served as the founding director of the Laboratory for Inline Process Analyses and as Senior Research Scientist in the Kenneth E. Johnson Research Center at the University of Alabama in Huntsville from 1989 to 1991; and

WHEREAS, he is a recognized research leader, making significant contributions in the field of real time process monitoring; and

WHEREAS, he has been successful in acquiring significant federal and private support for his research; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend William F. Arendale on his outstanding and distinguished research, academic and industrial career.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Arendale that he may know of our sincere praise of his outstanding career and of our warm best wishes that he and his wife, Jean, enjoy many years of continued happiness during his retirement.

Approved July 24, 1991

Time: 4:24 P.M.

Act No. 91-413 H.J.R. 302 — Reps. Carothers, Beasley, Mathis

HOUSE JOINT RESOLUTION

RECOGNIZING THE CENTENNIAL CELEBRATION OF
THE TOWN OF ASHFORD IN HENRY COUNTY, ALABAMA.

WHEREAS, having been incorporated June 22, 1891, as a part of Henry County, Alabama, the Town of Ashford is one hundred years old and is holding a Centennial Celebration on June 22, 1991, to commemorate this historic occasion; and

WHEREAS, upon incorporation in 1891, the town of Ashford, with a population of some 300 to 400 residents, held its first mayoral election which ended in controversy, as two men, J. M. Watson and R. R. (Bob) Adams both claimed an unofficial victory; and

WHEREAS, to settle the dispute, Mr. Watson and Mr. Adams each served over an assigned section of town, and Ashford has since been served, successively, by Mayors Jimmy Wilson, O. W. Sellers, John McIntyre, Cecil Culbreth, Captain Milligan, J. B. Farrior, F. G. Barber, J. C. Thaggard, J. S. Radney, B. A. Bruner, G. E. Jackson, J. P. Pettigrew, C. O. Adams, R. C. Adams, W. U. Wells, Hugh Summerlin and, currently, by Mayor Roy Hobbs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the 100th anniversary of the incorporation of the Town of Ashford, Alabama, we hereby extend heartiest congratulations to the governing body and all citizens thereof.

BE IT FURTHER RESOLVED, That Mayor Roy Hobbs receive a copy of this resolution, executed in recognition of Ashford's first century of progress and prosperity and with all best wishes for continuing growth and promise into the next one hundred years.

Approved July 24, 1991

Time: 4:25 P.M.

Act No. 91-414

H.J.R. 305 — Rep. Holley

HOUSE JOINT RESOLUTION

COMMENDING ROY M. "BUBBA" CADDELL, JR., OF PRATTVILLE, ALABAMA.

WHEREAS, the Alabama Legislature, in recognition of outstanding achievement, herein most highly commends Roy M. "Bubba" Caddell, Jr., of Prattville, a political science major at the University of Alabama, who recently completed the University's Montgomery Intern Program in assignment to the House Clerk's office; and

WHEREAS, Bubba Caddell, in addition to the duties and responsibilities assigned and supervised by the Chief Clerk, all of which were timely completed and with utmost diligence, also was required to meet for briefings by officials of all three branches of state government; and

WHEREAS, other course assignments included attendance at various seminars and the completion of specific book reviews and research projects as scheduled; and

WHEREAS, throughout his internship, Bubba Caddell provided many invaluable services to the Clerk's office and otherwise most competently fulfilled all other requirements of the University's Montgomery Intern Program; and

WHEREAS, an exceptionally gifted and enthusiastic student, Bubba Caddell has many accomplishments to his credit, both in high school and college, as a member of the University's Dean's List, as Youth Ambassador to Russia in the summer of 1990, and as Student Council President at Prattville High School, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and in gratitude for his contributions as a Legislative Intern, May 13-31, 1991, we hereby commend Roy M. "Bubba" Caddell, Jr., of Prattville, Alabama, whom we hold in highest personal regard and to whom a copy of this resolution shall be forwarded.

Approved July 24, 1991

Time: 4:26 P.M.

Act No. 91-415

H.J.R. 306 — Rep. Holley

HOUSE JOINT RESOLUTION

COMMENDING JUDY HAYES OF DUNCANVILLE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, in recognition of outstanding achievement, herein most highly commends Judy Hayes of Duncanville, a political science major at the University of Alabama who recently completed the University's Montgomery Intern Program in assignment as an intern to Representative Jimmy Holley; and

WHEREAS, Judy Hayes, in addition to the duties and responsibilities assigned and supervised by Representative Holley, all of which were timely completed and with utmost diligence, also was required to meet for briefings by officials of all three branches of state government; and

WHEREAS, other course assignments included attendance at various seminars and the completion of specific book reviews and research projects as scheduled; and

WHEREAS, throughout her internship, Judy Hayes provided many invaluable services to the House and otherwise most competently fulfilled all other requirements of the University's Montgomery Intern Program; and

WHEREAS, an exceptionally gifted and enthusiastic student, Judy Hayes has many accomplishments to her credit, both at Shelton State Community College where she received an associate degree in mathematics and at the University, including a full academic scholarship to SSCC, vice president of Phi Theta Kappa and the Governor's Award for Volunteerism, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and in gratitude for her contributions as a Legislative Intern, May 13-31, 1991, we hereby commend Judy Hayes of Duncanville, Alabama, whom we hold in highest personal regard and to whom a copy of this resolution shall be forwarded.

Approved July 24, 1991

Time: 4:27 P.M.

Act No. 91-416

H.J.R. 308 — Reps. Butler, Freeman, Hall,
Sanderford, Grayson

HOUSE JOINT RESOLUTION

COMMENDING JERRI MCLAIN FOR DISTINGUISHED SERVICE AS A MEMBER OF THE ALABAMA EDUCATIONAL TELEVISION COMMISSION, 1970-1991.

WHEREAS, Jerri McLain was appointed to the Alabama Educational Television Commission in 1970 by Governor Albert Brewer; and

WHEREAS, she was reappointed to serve two additional terms for a total span of service of 21 years as a member of the Alabama Educational Television Commission representing the fifth Congressional District; and

WHEREAS, she has served as Secretary of the Alabama Educational Television Commission from 1984 to 1991; and

WHEREAS, she has served as the alternate lay delegate representing the Alabama Educational Television Commission to the Association of America's Public Television Stations; and

WHEREAS, she has contributed leadership, vision, and strong support for the educational mission of APT; and

WHEREAS, her current term as a member of the Alabama Educational Television Commission expires on June 25, 1991; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Jerri McLain for her many contributions to the work of Alabama Public Television and WLRH-FM in Huntsville, and wish to extend to her our deep appreciation for the dedication to purpose which she brought to the Commission during her terms of service from 1970-1991.

BE IT FURTHER RESOLVED, That in token of our sincere admiration and regard, a copy of this resolution shall be forwarded to Commissioner McLain.

Approved July 24, 1991

Time: 4:28 P.M.

Act No. 91-417

H.J.R. 309 — Rep. Cosby

HOUSE JOINT RESOLUTION

COMMENDING VAUGHAN REGIONAL MEDICAL CENTER, SELMA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT AND SERVICE.

WHEREAS, the Legislature of Alabama notes with great pride recent national recognition accorded Vaughan Regional Center of Selma, Alabama; and

WHEREAS, the U.S. Department of Health and Human Services' Secretary's Award for an Outstanding Program in Community Health

Promotion was given to Vaughan Regional Medical Center for the Center's Health Access Network program, a community outreach project for individuals ages 50 and older; and

WHEREAS, some 3,000 Network members derive benefit from health information, social services, financial assistance and billing available from Health Access counselors, as well as other benefits including educational programs, exercise classes, health screenings and a quarterly health magazine; and

WHEREAS, a much needed mobile clinic is an additional service soon to be available to area rural residents who are without access to a physician's care in town due to lack of transportation and/or limited financial means; and

WHEREAS, Vaughan Regional Medical Center is indeed to be praised for the success of its endeavors in providing accessible health care to the community, and the accomplishments of the Health Access Network program are to the great credit of hospital administrator Robert Morrow and the Center's dedicated staff; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Vaughan Regional Medical Center for outstanding achievement and service, and do further direct that a copy of this resolution be presented to Mr. Morrow on behalf of the Center and its entire staff.

Approved July 24, 1991

Time: 4:29 P.M.

Act No. 91-418

H.J.R. 310 — Rep. Williams

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF THE REVEREND WILLIAM COMER AUTREY OF OZARK, ALABAMA.

WHEREAS, grievously recorded by the Legislature of Alabama is the lamentable death of the Reverend William Comer Autrey on December 24, 1990, at the age of 77 years; and

WHEREAS, born May 16, 1913, the Reverend (Dr.) Autrey lived an exemplary life, ever seeking the Spirit of God that he remain free from selfish desires, and that he humbly serve to the glory of God and in the name of his blessed Savior; and

WHEREAS, Reverend Autrey, in all that he did, was dedicated and honorable, thereby setting an example from which others learned that we are indeed our "brother's keeper"; and

WHEREAS, for more than 50 years, Pastor William Comer Autrey was a devoted husband, father and grandfather; a leader within the community; a supporter of education; and was most especially noted for his participation in religious works; and

WHEREAS, the death of the Reverend William Comer Audrey has indeed left an unfathomable void in the lives and hearts of his loving family and those he long and well served till breath was no more; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his loss, we give thanks for the Christian faith and service of the Reverend William Comer Autrey of Ozark, Alabama, and extend deepest sympathy to his beloved wife, Mrs. Ellie Mae Barnes Autrey; to his daughters, Mrs. Sarah Autrey Alexander, Ms. Mary Hazel Autrey, Mrs. Linda J. Autrey-Palmer and Mrs. Ernestine Autrey Robinson; and to other family members and friends, whose sorrow we sincerely share and for whom a copy of this resolution shall be provided.

Approved July 24, 1991

Time: 4:30 P.M.

Act No. 91-419 H.J.R. 403 — Reps. McMillan, Penry, Anderson,
 Barnes, Beasley, Biddle,
 Black (L), Black (M), Blakeney,
 Bowling, Box, Bryant, Bugg,
 Burke, Buskey (JE), Buskey (JL),
 Butler, Cagle, Campbell, Carns,
 Carothers, Carter, Clark (J),
 Clark (W), Clay, Cosby, Crow,
 Cullins, Curry, Dolbare, Drake,
 Escott-Russell, Flowers, Ford,
 Freeman, Fuller, Gaines, Gaston,
 Goodwin, Grayson, Gullatt, Hall,
 Hamilton, Hammett, Haney,
 Harper, Harvey, Hawkins,
 Haynes, Higginbotham, Hill,
 Hogan, Holladay, Holley, Holmes,

Hooper, Johnson, Kennedy,
 Knight, Kvalheim, Laird, Layson,
 Letson, Lindsey, Mathis, McClain,
 McDaniel, McDowell, McKee,
 Melton, Mikell, Millican, Morrow,
 Morton, Newman, Newton (C),
 Newton (D), Parker (P), Parker (T),
 Payne, Perdue, Petelos, Poole,
 Powell, Rich, Richardson,
 Rockhold, Rogers (F), Rogers (J),
 Sanderford, Sanderson, Smith (C),
 Smith (R), Spratt, Starkey,
 Thomas, Turner, Turnham,
 Venable, Walker, Warren, White,
 Williams, Willis, Zoghby

HOUSE JOINT RESOLUTION

COMMENDING SUSAN MADDOX COSBY FOR OUT-
 STANDING SERVICE TO THE GOVERNOR'S OFFICE AND
 WISHING HER EVERY FUTURE CAREER SUCCESS.

WHEREAS, Susan Maddox Cosby is a native of Enterprise, Alabama, where she attended elementary and high school, and is a graduate of Troy State University where she earned both her B.A. and M.A. degrees; and

WHEREAS, Mrs. Cosby taught special education classes in Ozark and Dothan before joining the Governor's Office as scheduling secretary for Governor Guy Hunt, an exacting and highly responsible position in which she provided invaluable assistance from the onset of her tenure until her recent resignation to accept a new position in Selma; and

WHEREAS, Susan Cosby is the wife of our colleague, Representative Noopie Cosby, and they are the parents of five children, Kelli, Drayton, Mary Elise, Hayes and Catherine; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Susan Maddox Cosby of Selma, Alabama, for outstanding service to the Governor's Office and the State of Alabama, and do further direct that she receive a copy of this resolution executed in sincere friendship and with best wishes for every future career success and happiness in life.

Approved July 24, 1991

Time: 4:31 P.M.

Act No. 91-420 H.J.R. 404 — Reps. McMillan, Penry, Kvalheim,
Gaston, Anderson, Barnes,
Beasley, Biddle, Black (L),
Black (M), Blakeney, Bowling,
Box, Bryant, Bugg, Burke,
Buskey (JE), Buskey (JL),
Butler, Cagle, Campbell,
Carns, Carothers, Carter,
Clark (J), Clark (W), Clay,
Cosby, Crow, Cullins, Curry,
Dolbare, Drake, Escott-
Russell, Flowers, Ford,
Freeman, Fuller, Gaines,
Goodwin, Grayson, Gullatt,
Hall, Hamilton, Hammett,
Haney, Harper, Harvey,
Hawkins, Haynes,
Higginbotham, Hill, Hogan,
Holladay, Holley, Holmes,
Hooper, Johnson, Kennedy,
Knight, Laird, Layson, Letson,
Lindsey, Mathis, McClain,
McDaniel, McDowell, McKee,
Melton, Mikell, Millican,
Morrow, Morton, Newman,
Newton (C), Newton (D),
Parker (P), Parker (T), Payne,
Perdue, Petelos, Poole, Powell,
Rich, Richardson, Rockhold,
Rogers (F), Rogers (J),
Sanderford, Sanderson,
Smith (C), Smith (R), Spratt,
Starkey, Thomas, Turner,
Turnham, Venable, Walker,
Warren, White, Williams, Willis,
Zoghby

HOUSE JOINT RESOLUTION

PROCLAIMING 1992 AS THE YEAR OF THE GULF AND
ENDORING THE COOPERATIVE EFFORTS OF THE GULF
OF MEXICO PROGRAM TO SOLVE THE ENVIRONMENTAL
PROBLEMS OF THE GULF OF MEXICO.

WHEREAS, the United States encloses the Gulf of Mexico on
three sides, and two-thirds of the area of the continental United
States drains into the Gulf of Mexico; and

WHEREAS, the Gulf of Mexico yields close to twice the amount of shrimp as the rest of the United States, and accounts for over 20% of the nation's total commercial fish yield; and

WHEREAS, the estuaries, wetlands and barrier islands provide critical habitat for large populations of finfish, shellfish, waterfowl, shorebirds and colonial nesting birds; and

WHEREAS, the Gulf of Mexico provides critical habitat for 75% of the migratory waterfowl traversing the United States; and

WHEREAS, 90% of domestic offshore production of oil and gas is from the Gulf of Mexico, and almost half of United States shipping tonnage passes through Gulf of Mexico ports; and

WHEREAS, the Gulf of Mexico is a national treasure deserving of our best stewardship; and

WHEREAS, there are serious long-term environmental problems appearing throughout the marine ecosystem of the Gulf; and

WHEREAS, over 3,000 square miles of bottom waters with excessively low levels of oxygen, known as the "dead zone," have been identified off the Louisiana and Texas coast; and

WHEREAS, concerns over health have resulted in the permanent or conditional closure of 57% of the shellfish growing areas along the Gulf Coast; and

WHEREAS, in 1988, a Gulf of Mexico Program was created as an intergovernmental program under the leadership of the U. S. Environmental Protection Agency; and

WHEREAS, the purpose of this program is to provide a regional perspective to address the complex and interrelated problems of the Gulf; and

WHEREAS, it is in our best interest that federal agencies and the Gulf States closely coordinate and integrate their efforts; and

WHEREAS, this joint effort will provide a mechanism for addressing the problems that cross state, federal, international and jurisdictional lines; and

WHEREAS, this joint mission will identify innovative state and local ventures in the Gulf; and

WHEREAS, the Gulf of Mexico Program has designated 1992 as "The Year of the Gulf" to expand public awareness and knowledge and promote a sense of stewardship; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby proclaim 1992 as "The Year of the Gulf" in the State of Alabama, and do further endorse the cooperative efforts of the participants

in the Gulf of Mexico Program in solving the environmental problems of the Gulf of Mexico.

Approved July 24, 1991

Time: 4:32 P.M.

Act No. 91-421

H.J.R. 242 — Rep. McKee

HOUSE JOINT RESOLUTION

COMMENDING LESTER HENDERSON OF MONTGOMERY, ALABAMA, PSI 1991 EXECUTIVE OF THE YEAR.

WHEREAS, in consensus of commendation, the Legislature of Alabama notes the selection of Lester Henderson of Montgomery, Alabama, as the 1991 Executive of the Year by the Confederate Capital Chapter of Professional Secretaries International (PSI); and

WHEREAS, Mr. Henderson, Central Bank of the South-Montgomery president, was chosen for recognition as Executive of the Year based on his contributions and dedication in job performance, attitude toward employees, job-related and civic honors, as well as other achievements in service to profession and community; and

WHEREAS, the annual PSI, Confederate Capital Chapter, Executive of the Year award is indeed a significant tribute to Mr. Henderson and reflects the magnitude and worth of his professional service and civic leadership; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate Lester Henderson of Montgomery, Alabama, as 1991 Executive of the Year, and do further direct that he receive a copy of this resolution of sincere praise and warmest personal regard.

Approved July 24, 1991

Time: 4:33 P.M.

Act No. 91-422

H.J.R. 246 — Reps. Carothers, Beasley, Mathis

HOUSE JOINT RESOLUTION

COMMENDING THE HOUSTON ACADEMY LADY RAIDERS ON THE CLASS 1A-4A STATE TENNIS CHAMPIONSHIP.

WHEREAS, the Legislature of Alabama enthusiastically applauds the Houston Academy Lady Raiders on the 1991 Class 1A-4A Tennis Championship, and their third state title in the past four years; and

WHEREAS, the Houston Academy Ladies, who lost last year's tournament by just one point, won the championship this year by ten points, finishing with a 60-point total ahead of defending champions Saint Paul's of Mobile, and the Montgomery Academy team; and

WHEREAS, coached by Kyle Henderson and Steve Klugewicz, the Houston Academy Tennis Champions are Rebecca Rollins, Kristen Flowers, Tammy Brogden, Jennifer Neill, Kaira King and Elizabeth McClintock; individual titles were won in No. 1 singles (Flowers), No. 3 singles (Neill) and No. 4 singles (Rollins) as well as in No. 1 doubles (Flowers and Neill); and

WHEREAS, in Alabama high school girls tennis, the Houston Academy Lady Raiders indeed dominate the field with their three titles and one second place finish in four years—a remarkable achievement that merits highest praise; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate and commend coaches Henderson and Klugewicz and the Houston Academy Lady Raiders on the State 1A-4A Tennis Championship for 1991.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for appropriate presentation and display at Houston Academy, Dothan, Alabama.

Approved July 24, 1991

Time: 4:34 P.M.

Act No. 91-423

H.J.R. 247 — Reps. Carothers, Beasley

HOUSE JOINT RESOLUTION

CONGRATULATING THE ASHFORD ACADEMY LADY FALCONS ON THE AISA STATE CLASS 2A SOFTBALL CHAMPIONSHIP.

WHEREAS, the Legislature of Alabama most heartily congratulates the Ashford Academy Lady Falcons on the 1991 AISA State Class 2A Softball Championship on April 14, 1991, by virtue of a

7-3 victory over American Christian Academy in the opening game, and 5-0 in the title match; and

WHEREAS, the Lady Falcons from Ashford were led to a fantastic 21-0 record in regular season play, and 28-0 through the tournament, by Head Coach Buzz Phillips and Assistant Coaches Christie Miller and Natalie Jeffcoat; and

WHEREAS, members of the State Class 2A Championship team are Cindy McArdle, Brittany Buie, Jennifer Dykes, Susan Watford, Jennifer Pate, Carla McIntyre, Stephanie Renda, Veronica Danford, Carmen Deese, Bridget Buie, Beth Jordan, Shana Jeffcoat, Stephanie Phillips, Wendy Temple, Crystal Trull, Deanna Lewis, Vivian Womack and Nicole Whitehead; serving as bat boy was Adam Temple and team statisticians were Julie Owens, Phillip Blackwell and Suzi Wheeler; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, with a 28-0 record and as the 1991 2A Champions of the Alabama Independent School Association State Softball Tournament, we hereby most highly commend and congratulate the Ashford Academy Lady Falcons, and direct that copies of this resolution be provided to Coach Buzz Phillip for appropriate presentation and school display.

Approved July 24, 1991

Time: 4:35 P.M.

Act No. 91-424

H.J.R. 248 — Rep. Williams

HOUSE JOINT RESOLUTION

COMMENDING THE U.S. ARMY AVIATION CENTER'S AIRCRAFT MAINTENANCE TEAM.

WHEREAS, the U.S. Army Aviation Center's aircraft maintenance team, composed of DynCorp Fort Rucker Division and the Center's related military and civilian personnel, is herein recognized and commended for outstanding maintenance support to the Army's flight training program at Fort Rucker, Alabama, and for unprecedented achievements in operational safety; and

WHEREAS, the aircraft maintenance team at Fort Rucker, managed by DynCorp since October 1988, maintains the training fleet of some 700 aircraft with utmost responsiveness and professionalism; the composite availability of aircraft for the past two

and one-half years has been an astounding 105% of the quantity requested for training, which is a phenomenal record considering that aircraft are required for up to four instructional flight periods each day in around-the-clock operation; and

WHEREAS, in addition to unprecedented performance in meeting Fort Rucker's training mission, DynCorp's team responded immediately to critical aircraft maintenance tasks generated by Operation Desert Shield; and

WHEREAS, when "D" Company, 229th Aviation Regiment, an Apache helicopter unit stationed at Fort Rucker, was alerted to deploy to Saudi Arabia on very short notice, DynCorp performed miraculous maintenance feats; the unit was thereby able to meet their deployment schedule with their aviation equipment in outstanding shape and maintained one of the highest equipment rates for aviation units through the Desert Storm phase of the operation; and

WHEREAS, the preceding performance alone warrants special recognition; it becomes even more outstanding, however, in view of the fact that DynCorp and the other maintenance team members at Fort Rucker have now supported over 1,000,000 flying hours in the challenging environment of flight training without a single aircraft accident related to the maintenance program — a vivid testimony to the skills and professionalism of the entire maintenance team; and

WHEREAS, in addition to this astounding achievement, their strong and dynamic safety program also resulted in significantly reduced property damage costs and personal injury rates, and this conservation of the Army's aviation resources is indeed a source of pride and praise for all concerned; and

WHEREAS, this body is indeed pleased to give special recognition to such high performance standards combined with superior safety programs; these hallmarks depict the strength of industry in the State of Alabama which realizes many dividends from these accomplishments, as does the Nation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding maintenance support to the Army's flight training program at Fort Rucker, and for unprecedented achievement in operational safety, we hereby most highly commend the U.S. Army Aviation Center's aircraft maintenance team, and do further direct that copies of this resolution be provided for the team and for the DynCorp Fort Rucker Division.

Approved July 24, 1991

Time: 4:36 P.M.

Act No. 91-425

H.J.R. 253 — Rep. Campbell

HOUSE JOINT RESOLUTION

DESIGNATING SEPTEMBER 6, 1991, AS "TROPICAL FISH DAY" IN ALABAMA.

WHEREAS, in Alabama, as throughout the nation, the aquarium hobby is increasing annually, and of approximately 250 aquarium clubs in the United States, there are three in the State of Alabama, a per capita rate that compares favorably with the growing interest in fish-keeping countrywide; and

WHEREAS, also following the national trend, there is a growing willingness in Alabama to spend increased amounts on this hobby—an observation based on pet shop sales alone, excluding other retail outlets—and available figures further indicate that a number of households keep as many as five or more aquariums and/or ponds of tropical fish; and

WHEREAS, in support of aquarium keeping in Alabama, the Legislature desires to acknowledge and encourage this altogether interesting and educational hobby and to confer said recognition in the month of September, at which time individuals and families look toward and plan for indoor interests and diversion for the winter months; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate September 6, 1991, as "Tropical Fish Day" in the State of Alabama, and call upon all citizens to support and encourage enthusiasm for fish-keeping as an educational endeavor for individual and family hobbyists alike.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. William Kreh of Anniston, President of the Calhoun County Aquarium Society and Chairman of the Federation of American Aquarium Societies Breeders Award Program.

Approved July 24, 1991

Time: 4:37 P.M.

Act No. 91-426 H.J.R. 260 — Reps. Holmes, Clark (J), Kennedy, Newton (D), McClain, Melton, Clay, Black (L), Bryant, Campbell, Rogers (J), McDowell, Box, Drake, Buskey (JL), Freeman, Parker (P), Escott-Russell, Harper, Bugg,

Fuller, Biddle, Anderson, Barnes,
 Beasley, Black (M), Blakeney,
 Bowling, Burke, Buskey (JE),
 Butler, Cagle, Carns, Carothers,
 Carter, Clark (W), Cosby, Crow,
 Cullins, Curry, Dolbare, Flowers,
 Ford, Gaines, Gaston, Goodwin,
 Grayson, Gullatt, Hall, Hamilton,
 Hammett, Haney, Harvey,
 Hawkins, Haynes, Higginbotham,
 Hill, Hogan, Holladay, Holley,
 Hooper, Johnson, Knight,
 Kvalheim, Laird, Layson, Letson,
 Lindsey, Mathis, McDaniel, McKee,
 McMillan, Mikell, Millican,
 Morrow, Morton, Newman,
 Newton (C), Parker (T), Payne,
 Penry, Perdue, Petelos, Poole,
 Powell, Rich, Richardson, Rockhold,
 Rogers (F), Sanderford, Sanderson,
 Smith (C), Smith (R), Spratt,
 Starkey, Thomas, Turner, Turnham,
 Venable, Walker, Warren, White,
 Williams, Willis, Zoghby

HOUSE JOINT RESOLUTION

COMMENDING GEORGE PERDUE OF BIRMINGHAM,
 ALABAMA, UPON HIS ELECTION AS CHAIRMAN OF THE
 ALABAMA LEGISLATIVE BLACK CAUCUS.

WHEREAS, indicative of his outstanding ability and leadership qualities is the recent election of our colleague, Representative George Perdue of Birmingham, as chairman of the Alabama Legislative Black Caucus;

WHEREAS, Mr. Perdue, who is a graduate of Morehouse College with a B.A. degree in Mathematics and a minor in Education/Business Administration, has also completed graduate studies at the University of Virginia and holds a Master's degree in Mathematics from Atlanta University; and

WHEREAS, Representative Perdue, a lifelong resident of his native Birmingham, with the exception of four-years' residency in Poughkeepsie, New York, (1968-1972), as a Systems Programmer with IBM Corporation, is a former high school mathematics teacher at Carver High School in Birmingham, and is in his 19th year at UAB and in current capacity as Special Assistant to the President for Business Development; and

WHEREAS, in addition, however, to his weighty responsibilities and related assignments with UAB, George Perdue holds an impressive record of leadership in political, civic and community affairs; his contributions in these areas have been of local, state and national significance and his many honors, awards and recognitions have emanated from corresponding levels; and

WHEREAS, State Representative George Perdue is indeed a most prominent Alabamian whose contributions to the good and well-being of his district, community, state and nation are countless in number; his personal and public achievements have been outstanding; and his impact upon the State and the affairs of this body are of desirable and lasting benefit; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of distinguished achievement and service, we hereby commend our friend and colleague, Representative George Perdue of Birmingham, whom we hold in highest personal regard and, to whom, a copy of this resolution shall be presented.

Approved July 24, 1991

Time: 4:38 P.M.

Act No. 91-427

H.J.R. 264 — Reps. Layson, Payne

HOUSE JOINT RESOLUTION

COMMENDING ALBERT G. MORTON OF BIRMINGHAM, ALABAMA, FOR DISTINGUISHED PROFESSIONAL ACHIEVEMENT AND SERVICE.

WHEREAS, Albert G. Morton of Birmingham is one of Alabama's most prominent educators who has achieved national recognition for his leadership and accomplishments as principal of Huffman Middle School; and

WHEREAS, Mr. Morton, a native of Tarrant, and Huffman principal since 1965, has been honored by President George Bush for his school's fight against drugs, an outstandingly successful campaign resulting in the school's selection as one of only three middle schools in the nation to receive a Drug-Free School Recognition Award; and

WHEREAS, in further professional achievement, Mr. Morton recently was named Principal of the Year for the Birmingham metropolitan area by Leadership Birmingham, a distinguished honor that indeed reflects his professional dedication and unswerving commitment to providing quality education in a safe, wholesome and drug-free environment; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Albert G. Morton, principal of Birmingham Huffman Middle School, for extraordinary professional achievement and service to the students of this state, and do further direct that he receive a copy of this resolution of highest honor and esteem.

Approved July 24, 1991

Time: 4:40 P.M.

Act No. 91-428 H.J.R. 277 — Reps. Grayson, Butler, Kennedy
HOUSE JOINT RESOLUTION

COMMENDING LAURA V. HALL OF HUNTSVILLE, ALABAMA, FOR OUTSTANDING SERVICE AS PRESIDENT OF THE HUNTSVILLE EDUCATION ASSOCIATION.

WHEREAS, Laura V. Hall has served two terms as President of the Huntsville Education Association (HEA); and

WHEREAS, while serving in this capacity, Mrs. Hall has displayed exceptional leadership and administrative qualities; and

WHEREAS, her leadership and direction have enabled the Huntsville Education Association to exemplify strong and forceful representation of over 1700 teachers and support personnel within the Huntsville City School System; and

WHEREAS, Mrs. Hall has worked closely with Democratic leadership on the local, state and national levels; and

WHEREAS, Mrs. Hall has kept educational excellence at the forefront of all of her endeavors; and

WHEREAS, Mrs. Hall will end her term as HEA President on June 7, 1991; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby commend Mrs. Laura V. Hall for her outstanding contributions in the field of education and her exceptional community involvement.

BE IT FURTHER RESOLVED, That Mrs. Hall receive a copy of this resolution, tendered in sincere regard for her many accomplishments on behalf of the Huntsville City School System, its students and the community.

Approved July 24, 1991

Time: 4:45 P.M.

Act No. 91-429

H.J.R. 284 — Rep. Newton (C)

HOUSE JOINT RESOLUTION

NAMING "VETERANS MEMORIAL PARKWAY" IN GREENVILLE, ALABAMA.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate that portion of Alabama Highway 10, beginning at the intersection of College Street and continuing west to Interstate Highway 65 in Greenville, Alabama, as "Veterans Memorial Parkway."

BE IT FURTHER RESOLVED, that the proper officials are herein authorized to erect and maintain appropriate signs and markers so designating said portion of Alabama Highway 10 as "Veterans Memorial Parkway."

RESOLVED FURTHER, That the City Council of Greenville, Alabama, and the Veterans of Foreign Wars Greenville Post No. 3625 be advised, by copy of this resolution, of this memorial designation by the Alabama Legislature.

Approved July 24, 1991

Time: 4:46 P.M.

Act No. 91-430

H.J.R. 292 — Reps. Kvalheim, Gaston,
Rockhold, Box, Zoghby

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WILLIAM J. DIFFLEY OF MOBILE, ALABAMA.

WHEREAS, herein recorded with regret is the lamentable death of William J. Diffley of Mobile, Alabama, on May 16, 1991; and

WHEREAS, William J. Diffley, who was a native of Bessemer, Alabama, and a resident of Mobile for 27 years, was a graduate of Hueytown High School, attended Tulane and Emory Universities, and graduated from the University of South Alabama; and

WHEREAS, commissioned in 1945, he served until 1953 aboard the USS Trident, USS Report, USS Towhee and as commanding officer of the USS Crossbill; following several other assignments, he was transferred to the Naval Reserve Training Center in Mobile as commanding officer from 1965-1967; he then

served in other assignments until his retirement from the Navy in 1974, with such distinctions as the Legion of Merit Bronze Star with Combat V, the Navy Unit Commendation and the Vietnamese Honor Medal First Class, among others; and

WHEREAS, Captain Diffley, who was appointed assistant executive director of the USS Alabama Battleship Commission in 1974 and executive director in 1977, devoted the last 17 years of his life to the promotion of tourism in the Mobile area and the development of USS Alabama Battleship Memorial Park which, under his leadership, has become one of the most popular tourist attractions in the State of Alabama; and

WHEREAS, in addition to his responsibilities with the Battleship Commission, Captain Diffley also worked diligently in support of numerous community endeavors, most particularly those of concern to veterans and the Navy; and

WHEREAS, he was past president of the Alabama Travel Council, chairman of the Advisory Council for the Bureau of Tourism and Travel, president of the Historic Naval Ships Association, and was a member of the CINE-TEL Committee which promoted Mobile as the location for movie production, among numerous other civic and community activities; and

WHEREAS, in the death of William J. Diffley, the City of Mobile has indeed lost a beloved adoptive son who greatly brightened the lives of all those privileged to know him as a loyal and valued friend; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of William J. Diffley of Mobile, Alabama, and extend sincere sympathy to his wife and daughter, Rosemaree McKinney Diffley and Kathleen Stacey; and to other family members, for whom a copy of this resolution shall be provided.

Approved July 24, 1991

Time: 4:48 P.M.

Act No. 91-431

H.J.R. 397 — Rep. Williams

HOUSE JOINT RESOLUTION

NAMING THE NEW BRIDGE OVER CHOCTAWHATCHEE RIVER ON THE BEE LINE HIGHWAY IN DALE COUNTY, ALABAMA, IN HONOR OF THE LATE JUDGE LEWE FRANK SESSIONS.

WHEREAS, the late Judge Lewe Frank Sessions who died in May 1929, had resided in Dale County since 1900, was Judge of the probate court until his death in Dale County, and was active in farming; and

WHEREAS, a native of Union Springs in Bullock County, Alabama, born August 15, 1880, Judge Sessions was graduated from high school in 1900 and attended the Alabama Polytechnic Institute in Auburn, Alabama; and

WHEREAS, he was employed with the Planters and Merchants Bank in Ozark where he retired as Vice President in 1917, he owned farm lands aggregating 6,000 acres in Dale County, business interests in Union Springs and farm lands in Bullock County; Judge Sessions was County Commissioner of Dale County from 1918 to 1922, and he was elected Judge of Probate of Dale County in 1922; and

WHEREAS, Judge Sessions also served the community through activities with the Ozark Lodge #349, A.F. and A.M.; Landmark Chapter #71, R.A.M.; Ozark Commandery #33, K.T.; Alcazar Temple, A.A.O.N.M.S., Montgomery, Alabama; the Ozark Lodge K of P; Troy Lodge, No. 928, B.P.O.E.; a charter member of the Kiwanis Club of Ozark; and the Methodist Episcopal Church South of Ozark; and

WHEREAS, Judge Lewe Frank Sessions was indeed a distinguished citizen and outstanding community leader in Dale County, and in gratitude for his many deeds of service, it is entirely fitting and proper that his memory be forever perpetuated in an appropriate and lasting manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and memory of Judge Lewe Frank Sessions of Dale County, Alabama, we hereby name and designate the new bridge over Choctawhatchee River on the Bee Line Highway in Dale County, Alabama, as the "Judge Lewe Frank Sessions Bridge."

BE IT FURTHER RESOLVED, That the proper officials are hereby authorized to erect and maintain appropriate signs and markers so designating the "Judge Lewe Frank Sessions Bridge."

RESOLVED FURTHER, That the family of the late Judge Lewe Frank Sessions shall be provided with a copy of this commemorative designation of the Alabama Legislature.

Approved July 24, 1991

Time: 4:50 P.M.

Act No. 91-432

S. 27 — Senator Bedsole

AN ACT

To amend Section 33-4-38, Code of Alabama 1975, which provides for the levy, payment and disposition of ship pilot's license tax, so as to increase the amount thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 33-4-38, Code of Alabama 1975, is hereby amended to read as follows:

“§33-4-38.

“There is hereby levied upon each licensed pilot engaged in service as such under the provisions of this chapter a license or privilege tax in the sum of \$100.00 annually plus any reasonable additional assessment that arises and is necessarily incurred out of the performance by the pilot commission of their duties imposed by law, to be paid to the secretary of the commission and to be used for defraying all expenses and expenditures of said commission accruing under the provisions of this chapter. The commission may, by proper resolutions, permit said tax to be paid quarterly. Whenever the funds in the treasury of the commission exceed the sum of \$5,000.00, such excess shall be paid over to the treasury of the state of Alabama. Such privilege or license taxes so paid to the secretary of said commission shall become a part of the funds of said commission and shall be deposited by the secretary and otherwise handled and disbursed, as required by the provisions of this chapter.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 25, 1991 without approval by the Governor.

Act No. 91-433

H. 736 — Rep. Harper

AN ACT

To amend further Code of Alabama 1975, Section 32-5-313, relating to penalties for traffic infractions to provide funding for the driver education and training fund the Alabama college system truck driver training consortium fund, the catastrophic trust fund for special education, the Alabama traffic safety center fund and the state safety coordinating committee, so as to increase the penalty and to provide further for the distribution of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Code of Alabama 1975, Section 32-5-313, is hereby amended further to read as follows:

“Section 32-5-313.

In addition to all other fines, fees, costs and punishments now prescribed by law there shall be imposed or assessed an additional penalty of \$7.00 upon conviction by any judge in any court of the state of any offense involving a traffic infraction; or upon conviction of a traffic infraction prescribed by any county or municipal ordinance. All penalties collected under this section shall be forwarded by the officer of the court who collects the same to the state treasurer, within 30 days after the penalty or forfeiture is collected. All amounts so received shall be credited to special funds to be designated the “driver education and training fund,” “Alabama college system truck driver training consortium fund,” the “catastrophic trust fund for special education,” and the “Alabama traffic safety center fund,” and of the amounts so received, an amount equal to 21 percent thereof is hereby appropriated to the state department of education for the sole purpose of instituting and conducting a program of prelicensing driver education and training; an amount equal to 36 percent thereof is hereby appropriated to the state department of postsecondary education to be distributed equally to the entities comprising the Alabama college system truck driver training consortium on the effective date of this act for the sole purpose of instituting and conducting programs of truck driver education and training as outlined by the U.S. Department of Transportation with support and recommendations from the transportation industry within such Alabama college system truck driver training consortium provided, however, that these funds shall be expended only by institutions under the control of the state board of education; an amount equal to 10 percent thereof is hereby appropriated to the Alabama traffic safety center fund for the sole purpose of conducting programs in traffic safety, motorcycle safety and boating safety by the center; an amount equal to 3 percent is hereby appropriated to the state safety coordinating committee for payment of administrative expenses incurred in its programs; and the remaining 30 percent is hereby appropriated to the catastrophic trust fund for special education to be administered by the state department of education.”

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed the Governor's veto to the contrary notwithstanding, on July 29, 1991.

Act No. 91-434

H. 723 — Rep. Thomas

AN ACT

Relating to Lowndes County; authorizing the county commission to levy additional sales and use taxes paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3 40-23-4, 40-23-60, 40-23-61, 40-23-62 and 40-23-63 of the Code of Alabama 1975, as amended, providing for the collection, distribution and use of the proceeds of such tax; providing for the enforcement of this act by the state department of revenue; and prescribing penalties and fixing punishment for violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall only apply to Lowndes County.

Section 2. All words, terms, and phrases as defined in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4, 40-23-60, 40-23-61, 40-23-62 and 40-23-63 of the Code of Alabama 1975, as amended, providing for the levy of a state sales and use tax shall, wherever used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales and use tax statutes” means sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62 and 40-23-63 of the Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to affect, the administration of said sections and the incidence and collection of the tax imposed therein.

“State sales and use tax” means the tax imposed by the state sales and use tax statutes;

“State use tax” means the tax imposed by the State use tax statutes;

“Month” means the calendar month;

“County” means Lowndes County.

Section 3. The county commission is hereby authorized to levy and impose, in addition to all other taxes, including municipal gross receipts license taxes now imposed by law, a special county one-third cent privilege license tax paralleling the state sales and use tax, such

privilege license tax to be determined by the application of rates against gross sales or gross receipts, as the case may be.

There are exempted, however, from the provisions of this section and from the computation of the amount of the additional tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales and use tax statutes from the computation of the amount of the state sales and use tax.

Section 4. All taxes levied in this act shall be paid to and collected by the state department of revenue at the same time and in the same manner as state sales and use taxes are paid. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the state department of revenue a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the state department of revenue may require. Any person subject to the tax levied may defer reporting credit sales until after their collection, and in the event such person so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Lowndes County Commission, or its designated agent, at reasonable times during business hours.

Section 5. Each person engaging or continuing within Lowndes County in a business subject to the tax levied in Section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said sale or admission. It shall be unlawful for any person subject to the tax levied to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

Section 6. The tax imposed by this act shall constitute a debt due Lowndes County and may be collected as provided by law. The said tax, together with interest and penalties with respect thereto,

shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to enforcement of liens for license taxes due this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Lowndes County shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales and use tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it for Lowndes County.

Section 7. All provisions of the state sales and use tax statutes with respect to payment, assessment, and collection of the state sales and use tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 8. The state department of revenue shall charge Lowndes County for collecting the special county tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Lowndes County Commission, but such charge shall not, in any event, exceed five percent of the total amount of the special county tax collected in said county under this act. Such charge for collecting such special tax may be deducted each month from the gross revenues from such special tax before certification of the amount of the proceeds thereof due Lowndes County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department

of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Lowndes County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Lowndes County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Lowndes County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. He shall then deliver to the Lowndes County Commission the balance remaining, to be paid into the county general fund.

Section 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed the Governor's veto to the contrary notwithstanding, on July 29, 1991.

Act No. 91-435

H. 777 — Rep. Warren

AN ACT

To amend Section 1 of Act No. 256, S. 392 of the 1973 Regular Session (Acts 1973, p. 289), entitled "An Act To provide for an additional expense allowance for the members of the Monroe County Board of Registrars," so as to provide further for such expense allowance retroactive to October 1, 1985; and to specifically repeal Act No. 90-628, H. 886, 1990 Regular Session (Acts 1990, p. 1148).

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 256, S. 392 of the 1973 Regular Session (Acts 1973, p. 289), is hereby amended to read as follows:

"Section 1. any member of the Monroe County Board of Registrars shall be entitled to receive an expense allowance in the

amount of \$10.00 for each day such member either attends an official board meeting or otherwise reports for work and performs duties normally associated with the board's business. The expense allowance shall be paid out of county funds and shall be in addition to any and all other expense allowances, salary and compensation of the members of the Board of Registrars of Monroe County."

Section 2. The amendatory provisions of Section 1 of this act shall be retroactive to October 1, 1985.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed and Act No. 90-628, H. 886, 1990 Regular Session (Acts 1990, p. 1148), is hereby specifically repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed the Governor's veto to the contrary notwithstanding, on July 29, 1991.

Act No. 91-436

H. 860 — Rep. Lindsey

AN ACT

Relating to Cherokee County; to provide for the merging of the budgetary operations of the Revenue Commissioner's office; to provide that the said office shall be financed on a pro rata share basis from proceeds of state, county and municipal ad valorem taxes collected in the county; to establish a separate county fund to receive the tax collections, to be named the revenue commissioner's operational fund; and to provide for supplemental effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The Revenue Commissioner of Cherokee County is hereby authorized to take the necessary action to merge the budgetary operations and functions of his office. Hereafter, said office shall be financed on a pro rata share basis from the proceeds of state, county and municipal ad valorem taxes collected in the county. The funds collected by the revenue commissioner's office shall be deposited into a separate county fund hereby created which shall be named the revenue commissioner's operational fund. This act is not intended to affect any other county office of Cherokee County.

Section 2. The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws regulating the Revenue Commissioner's office in Cherokee County; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed.

Section 3. The provisions of this act shall become effective October, 1, 1991.

Passed the Governor's veto to the contrary notwithstanding, on July 29, 1991.

Act No. 91-437

H. 791 — Rep. Black (M)

AN ACT

Relating to Colbert County; providing for the establishment of a consolidated and unified system for assessment and collection of taxes under the supervision of an elected county official designated as county revenue commissioner; providing for the compensation of such official; abolishing the offices of tax assessor and tax collector; repealing conflicting laws; and providing for a referendum thereon.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective October 1, 1997, or upon occurrence of a vacancy in either the office of tax assessor or tax collector, there shall be a county revenue commissioner in Colbert County. A commissioner shall be elected at the general election in 1996 and at the general election every six years thereafter, who shall serve for a term of six years beginning on the first day of October next after his election, and until his successor is elected and has qualified.

Section 2. The county revenue commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for taxation, the collection of taxes, the keeping of records and the making of reports concerning assessment for and the collection of taxes.

Section 3. Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks, and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

Section 4. Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute

a bond in such sum as may be fixed by Section 40-5-3 of the 1975 Code of Alabama for Tax Collectors in Alabama, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned as other official bonds are conditioned and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on warrant of the county commission, and shall be a preferred claim against the county.

Section 5. The county commission shall provide the necessary offices for the county revenue commissioner, and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

Section 6. The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor or the tax collector of the county are now or hereafter may be by law authorized and directed to charge or collect for the performance of any duty hereby imposed on the county revenue commissioner. As compensation for the performance of the duties of his office, the county revenue commissioner shall receive an annual salary as provided by law, payable in equal monthly installments out of the general fund of the county.

Section 7. The offices of the tax assessor and tax collector of Colbert County are hereby abolished effective the first day of October 1997, or upon the occurrence of a vacancy in the office of tax assessor or tax collector. In the event that the office of tax assessor or tax collector becomes vacant before October 1, 1997, the office of county revenue commissioner shall immediately come into being, and the remaining officer, tax assessor or tax collector, as the case may be, shall immediately assume the duties of the office of county revenue commissioner and shall perform such duties until a county revenue commissioner has been elected as provided herein. For the performance of such duties, he shall be entitled to the salary herein above prescribed for the county revenue commissioner.

Section 8. The provisions of this act shall become operative in Colbert County, only if they are first approved by a majority of the qualified electors of said county who vote thereon in a referendum election to be held at the next general, special or constitutional election. Said election may be held pursuant to the provisions of this act, at which time the question shall be submitted substantially as follows:

"Shall Act No. ____ of the 1990 Regular Session of the Legislature which provides for the abolition of the offices of tax assessor and tax

collector of Colbert County and the consolidation of the duties of these officers into the one office to be known as the county revenue commissioner, be approved? Yes ____ No ____."

If a majority of the votes cast at such election are "Yes" votes, then this act shall become effective as provided above. If a majority of the votes cast are "No" votes, this act shall have no further force or effect. The referendum election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution. Notice of the election shall be given by the county commissioners of Colbert County. Such notice shall be published once a week for three successive weeks before the day of the election. The judge of probate shall also certify the results of the election to the Secretary of State immediately after the returns have been certified.

Section 9. It is the purpose of this act to promote the public convenience in Colbert County by consolidating the offices of tax assessor and tax collector into one office.

Section 10. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are hereby repealed.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Passed the Governor's veto to the contrary notwithstanding, on July 29, 1991.

Act No. 91-438

H. 27 — Rep. Fuller

AN ACT

To amend Sections 12-19-171, 12-19-172, 12-19-175, 12-19-178 and 12-19-179, Code of Alabama 1975, so as to increase certain fees in traffic infraction and misdemeanor cases in district and circuit court and to provide for the distribution of the fee increase.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-19-171, Code of Alabama 1975, is hereby amended to read as follows:

"§12-19-171.

"(a) The following docket fees shall be collected for juvenile and criminal cases in the district court and the circuit court:

“(1) District Court:

“a. Traffic infraction	\$40.00
“b. Issuance of alias writ.....	20.00
“c. Misdemeanor-violation	62.00
“d. Felony guilty plea	130.00
“e. Preliminary hearing	30.00
“f. Bond forfeiture.....	35.00

“(2) Circuit Court:

“a. Issuance of alias writ.....	30.00
“b. Misdemeanor.....	62.00
“c. Felony	130.00
“d. Bond forfeiture.....	35.00

“(3) Docket fees for cases in the juvenile division of the district court or circuit court shall be assessed at \$40.00 and shall be distributed as follows: \$7.00 to the fair trial tax fund, \$18.00 to the state general fund, \$10.00 to the county general fund, and \$5.00 to the peace officers’ standards and training fund. Uncollected court costs in juvenile cases may not be assessed as charges against the county.

“(b) A fee of \$8.00 shall be collected for the issuance of each witness subpoena. Witness subpoena fees shall be in addition to docket fees. The subpoena fee shall be distributed five dollars to the county general fund and three dollars to the state general fund.”

Section 2. Section 12-19-172, Code of Alabama 1975, is hereby amended to read as follows:

“§12-19-172.

“(a) The following docket fees shall be collected for municipal ordinance cases in the district court:

“(1) Traffic infraction	\$40.00
“(2) Issuance of alias writ	20.00
“(3) Other ordinance violations	62.00
“(4) Bond forfeiture	35.00

“(b) On appeals de novo to the circuit court, the docket fees in municipal ordinance cases shall be the same as those collected for misdemeanor cases.”

Section 3. Section 12-19-175, Code of Alabama 1975, is hereby amended to read as follows:

“§12-19-175.

“The following distribution shall be made of docket fees for misdemeanors in circuit court: \$7.00 to the fair trial tax funds; \$23.00 to the state general fund; \$10.00 to the county general fund; \$10.00 to the district attorney fund or to the fund prescribed by law for district attorney fees; \$7.00 to the peace officers’ annuity fund; and \$5.00 to the peace officers’ standards and training fund, provided however, that the \$5.00 provided herein for the peace officers’ standards and training fund shall not be assessed and collected in traffic or conservation cases.”

Section 4. Section 12-19-178, Code of Alabama 1975, is hereby amended to read as follows:

“§12-19-178.

“The following distribution shall be made of docket fees for misdemeanor cases in district court: \$7.00 to the police officers’ annuity fund; \$7.00 to the fair trial tax fund; \$23.00 to the state general fund; \$5.00 to the county general fund; an arrest fee of \$5.00 to the state general fund or to the state funds prescribed by law; except, that the arrest fee shall be paid into the county general fund in cases initiated by county law enforcement officers; \$10.00 to the district attorney fund or to the fund prescribed by law for district attorney fees; \$5.00 to the peace officers’ standards and training fund, provided however, that the \$5.00 provided herein for the peace officers’ standards and training fund shall not be assessed and collected in conservation cases.”

Section 5. Section 12-19-179, Code of Alabama 1975, is hereby amended to read as follows:

“§12-19-179.

“(a) The following distribution shall be made of docket fees for traffic infractions in district court: \$3.00 to the police officers’ annuity fund; \$7.00 to the fair trial tax fund; \$1.50 to the driver education fund; \$18.00 to the state general fund; \$3.00 to the county general fund; an arrest fee of \$5.00 to the state general fund or the state funds prescribed by law; except, that the arrest fee shall be paid into the county general fund in cases initiated by county law enforcement officers; and \$2.50 to the district attorney fund or to the fund prescribed by law for district attorney fees.

“(b) Fees for issuance of alias writs from circuit and district courts shall be distributed as follows: writs issuing from district court, \$2.00 to the county general fund; \$18.00 to the state general fund; writs issuing from circuit court, \$5.00 to the county general fund; \$25.00 to the state general fund.”

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 3:20 P.M.

Act No. 91-439

H. 85 — Reps. Hooper, Sanderson, Hawkins,
Gaines, Fuller, Knight

AN ACT

Relating to immunity from civil liability while in volunteer service without compensation for a nonprofit organization or corporation or governmental entity; to provide that any public or community service volunteer without compensation shall be immune from civil liability in any civil action on the basis of any act or omission of such volunteer resulting in damage or injury if said volunteer was acting in good faith within the scope of his official functions and such damage or injury was not caused by willful or wanton misconduct; to provide that the responsibility of an established act or omission of a volunteer shall be the responsibility of the principal organization under the doctrine of "respondeat superior."

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as "The Volunteer Service Act."

Section 2. The legislature finds and declares that:

(a) The willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers;

(b) The contributions of programs, activities and services to communities is diminished and worthwhile programs, activities and services are deterred by the unwillingness of volunteers to serve either as volunteers or as officers, directors or trustees of nonprofit public and private organizations;

(c) The provisions of this act are intended to encourage volunteers to contribute their services for the good of their communities and at the same time provide a reasonable basis for redress of claims which may arise relating to those services.

Section 3. For the purposes of this act, the meaning of the terms specified shall be as follows:

“Volunteer” is a person performing services for a nonprofit organization, a nonprofit corporation, a hospital, or a governmental entity without compensation, other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee or direct service volunteer;

“Nonprofit organization” is any organization which is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, 26 U.S.C. section 501(c), as amended;

“Nonprofit corporation” is any corporation which is exempt from taxation pursuant to section 501(a) of the Internal Revenue Code, 26 U.S.C. section 501(a);

“Governmental entity” is any county, municipality, township, school district, chartered unit or subdivision, governmental unit, other special district, similar entity, or any association, authority, board, commission, division, office, officer, task force or other agency of any state.

Section 4. (a) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation, hospital or a governmental entity; and

(2) The damage or injury was not caused by willful or wanton misconduct by such volunteer.

(b) In any suit against a nonprofit organization, nonprofit corporation or a hospital for civil damages based upon the negligent act or omission of a volunteer, proof of such act or omission shall be sufficient to establish the responsibility of the organization therefor under the doctrine of “respondeat superior,” notwithstanding the immunity granted to the volunteer with respect to any act or omission included under subsection (a) of this section.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall be effective as to any civil suit for damages commenced on or after 180 days from the date of enactment

of this act regardless of whether the claim arose prior to the date of enactment.

Approved July 29, 1991

Time: 3:27 P.M.

Act No. 91-440

H. 423 — Reps. Biddle, Newton (C), Johnson

AN ACT

To amend sections 22-52-2, 22-52-3, 22-52-4, 22-52-6, 22-52-7, 22-52-8, 22-52-9, 22-52-11, 22-52-12, 22-52-13, and 22-52-15, Code of Alabama 1975, relating to mental health and mental retardation, so as to provide further for the involuntary commitment, discharge and transfer of persons in state institutions; to prescribe definitions; to provide for new commitment criteria for persons whom petitions for involuntary commitment have been filed and to grant the department the authority to designate mental health facilities to receive persons for evaluations, admissions, detention, treatment and discharge; to allow designated mental health facilities to contract with public or private mental health facilities, subject to approval by the department, for care and treatment of committed persons; to allow the probate court the alternative to commit a respondent to outpatient treatment; to create standards that the probate court must follow in ordering outpatient treatment and to set a time limit on the outpatient treatment order; to create criteria for inpatient treatment, to set time limits on the order for inpatient commitment, and to provide a mechanism whereby an inpatient commitment order may be extended; to provide for the appointment of special probate judges to consider, hear and enter appropriate orders with regard to the renewal of commitment orders; to allow the transfer of a respondent committed to inpatient treatment to another treatment facility; to grant all persons acting in good faith in connection with the evaluation, examination, certification, testing, admission, detention, treatment or discharge of any respondent, freedom from all civil liability by reason of such action; to specifically repeal sections 22-52-1 and 22-52-10 of the Code of Alabama 1975; and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. This act is intended to achieve and to promote the following legislative purposes:

- (1) To provide access to care and treatment to persons who suffer from a mental illness and can benefit from treatment;
- (2) To safeguard the legal rights of persons suffering from a mental illness in such a manner as to advance and not impede the therapeutic and protective purposes of involuntary treatment;
- (3) To protect the right of each person to judicial determination of the need for involuntary treatment;
- (4) To facilitate treatment in an appropriate setting; and
- (5) To provide legal immunity for reasonable, good faith efforts to implement the provisions of this act.

Section 2. When used in this act, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **Mental illness.** A psychiatric disorder of thought and/or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life. Mental illness, as used herein, specifically excludes the primary diagnosis of epilepsy, mental retardation, substance abuse, including alcoholism, or a developmental disability.

(2) **State mental health facility.** A mental health facility operated by the Alabama state department of mental health and mental retardation.

(3) **Designated mental health facility.** A mental health facility other than a state mental health facility designated by the state department of mental health and mental retardation to receive persons for evaluation, examination, admission, detention or treatment pursuant to the provisions of this act.

(4) **Commissioner.** The commissioner of the Alabama state department of mental health and mental retardation.

(5) **Outpatient treatment.** Treatment being provided to a person in a nonresidential setting and who is not admitted for 24-hour-a-day care.

(6) **Inpatient treatment.** Treatment being provided to a person at a state mental health facility or a designated mental health facility which has been specifically designated by the department for inpatient treatment.

(7) **Respondent.** A person for which a petition for commitment to mental health services has been filed.

(8) **Department.** The Alabama state department of mental health and mental retardation.

(9) **Involuntary commitment.** Court ordered mental health services in either an outpatient or inpatient setting.

Section 3. Any person may file a petition seeking the involuntary commitment of another person. The petition shall be filed in the probate court of the county in which the respondent is located. The petition shall be in writing, executed under oath and shall state: (i) the name and address of the respondent, if known; (ii) the name and address of the respondent's spouse, legal counsel or next-of-kin, if known; (iii) that the petitioner has reason to believe the respondent is mentally ill; (iv) that the petitioner's beliefs are based on specific behavior, acts, attempts, or threats, which shall be specified and described in detail; and (v) the petition shall contain

names and addresses of other persons with knowledge of respondent's mental illness who may be called as witnesses. The petition may be accompanied by any other relevant information.

Section 4. Section 22-52-2, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-2.

“(a) When any petition is filed seeking the involuntary commitment of a respondent, the probate judge shall immediately review the petition and shall require the petitioner to be sworn and answer under oath questions regarding the petition and the respondent.

“(b) If it appears from the face of the petition or from the testimony of the petitioner that the petition is totally without merit, the probate judge shall order the petition dismissed without further proceedings.”

Section 5. Section 22-52-3, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-3.

“When any petition has been filed seeking the involuntary commitment of a respondent and such petition has been reviewed by the probate judge, the probate judge shall order the sheriff of the county in which the respondent is located to serve a copy of the petition, together with a copy of the order setting the petition for a hearing, upon the respondent. Said notice shall include the date, time and place of the hearing; a clear statement of the purpose of the proceeding and the possible consequences to the subject thereof; the alleged factual basis for the proposed commitment; a statement of the legal standards upon which commitment is authorized; and a list of the names and addresses of the witnesses who may be called to testify in support of the petition. The hearing shall be preceded by adequate notice to the respondent.”

Section 6. Section 22-52-4, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-4.

“(a) At the time when any petition has been filed seeking the involuntary commitment of a respondent, the probate judge shall appoint a guardian ad litem to represent and to protect the rights of the respondent, and shall determine if the respondent has the funds with which to employ an attorney to represent the respondent and if the respondent has the mental ability to secure the services of an attorney. If the respondent does not have funds with which to employ an attorney or does not have the mental ability to

secure the services of an attorney, the probate judge shall appoint an attorney, who may be the same person as the guardian ad litem, to represent the respondent. The probate judge shall immediately inform the attorney so appointed of his appointment.

“(b) No statement made or act done by the respondent in the presence of the probate judge prior to the respondent obtaining the services of an attorney, by appointment or otherwise, shall be considered by the probate judge in determining whether the respondent should be committed.”

Section 7. Section 22-52-6, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-6.

“(a) When a petition is filed seeking the involuntary commitment of a respondent, the probate judge with whom the petition is filed shall notify the department or designated mental health facility of the pendency of the petition in the manner and with such other information as designated by the department.

“(b) The probate judge shall notify the department or a designated mental health facility of the date of the final hearing on the petition to commit.”

Section 8. Section 22-52-7, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-7.

“(a) When a petition has been filed seeking to have limitations placed upon the liberty of a respondent pending the outcome of a final hearing on the merits, the probate judge shall order the sheriff of the county in which the respondent is located to serve a copy of the petition upon the respondent and to bring the respondent before the probate judge *instanter*. When any respondent against whom a petition has been filed seeking to have limitations placed upon the respondent's liberty pending the outcome of a full and final hearing on the merits is initially brought before the probate judge, the probate judge shall determine from an interview with the respondent and with other available persons what limitations, if any, shall be imposed upon the respondent's liberty and what temporary treatment, if any, shall be imposed upon the respondent pending further hearings. If limitations on the respondent's liberty are ordered, the probate judge may order the respondent detained under the provisions of this section at a designated mental health facility or a hospital.

“(b) No limitations shall be placed upon the respondent's liberty nor treatment imposed upon the respondent unless such limitations

are necessary to prevent the respondent from doing substantial and immediate harm to himself or to others or to prevent the respondent from leaving the jurisdiction of the court. No respondent shall be placed in a jail or other facility for persons accused of or convicted of committing crimes.

“(c) The probate judge shall order the respondent to appear at the times and places set for hearing the petition and may order the respondent to appear at designated times and places to be examined by licensed medical doctors or qualified mental health professionals. If the respondent does not appear as ordered by the probate judge, the probate judge may order the sheriff of the county in which the respondent is located to take the respondent into custody and compel the respondent’s attendance as ordered by the probate judge. If temporary treatment or admittance to a hospital is ordered for the respondent, such treatment shall be supervised by a licensed medical doctor or qualified mental health professional who has willingly consented to treat the respondent, and admission to a hospital shall be ordered by a licensed medical doctor who has willingly consented to admit and treat the respondent.”

Section 9. Section 22-52-8, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-8.

“(a) When any respondent sought to be committed has any limitation imposed upon his liberty or any temporary treatment imposed upon him by the probate judge pending final hearings on such petition, the probate judge, at the time such limitation or treatment is imposed, shall set a probable cause hearing within seven days of the date of such imposition. If, at such probable cause hearing, the probate judge finds that probable cause exists that the respondent should be detained temporarily and finds that temporary treatment would be in the best interest of the respondent, the probate judge shall enter an order so stating and setting the date, time and place of a final hearing on the merits of such petition.

“(b) The final hearing shall be held within 30 days of the date that the respondent was served with a copy of the petition seeking to commit the respondent.

“(c) If temporary treatment or admittance to a hospital is ordered for any respondent, such treatment shall be supervised by a licensed medical doctor or qualified mental health professional who has willingly consented to treat the respondent, and admission to a hospital shall be ordered by a licensed medical doctor who has willingly consented to admit and treat the respondent.”

Section 10. Section 22-52-9, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-9.

“At all hearings, including probable cause hearings, conducted by the probate judge in relation to a petition to involuntarily commit a respondent, the following rules shall apply:

“(1) The respondent shall be present unless, prior to the hearing, the attorney for the respondent has filed in writing a waiver of the presence of the respondent on the ground that the presence of the respondent would be dangerous to the respondent’s physical or mental health or that the respondent’s conduct could reasonably be expected to prevent the hearing from being held in an orderly manner, and the probate judge has judicially found and determined from evidence presented in an adversary hearing that the respondent is so mentally or physically ill as to be incapable of attending such proceedings. Upon such findings an order shall be entered approving the waiver.

“(2) The respondent shall have the right to compel the attendance of any witness who may be located anywhere in the state of Alabama and to offer evidence including the testimony of witnesses, to be confronted with the witnesses in support of the petition, to cross-examine them and to testify in his own behalf, but the respondent shall not be compelled to testify against himself. The attorney representing the respondent shall be vested with all of the rights of said respondent during all of the hearings if the respondent is not present in court to exercise his rights.

“(3) The probate judge shall cause the hearing to be transcribed or recorded stenographically, mechanically or electronically and shall retain such transcription for a period of not less than three years from the date the petition is denied or granted and not less than the duration of any commitment pursuant to such hearing.

“(4) All hearings shall be heard by the probate judge without a jury and shall be open to the public unless the respondent or his attorney requests in writing that the hearings be closed to the public.

“(5) The rules of evidence applicable in other judicial proceedings in this state shall be followed in involuntary commitment proceedings.”

Section 11. (a) If at the final hearing on a petition seeking to involuntarily commit a respondent, the probate judge finds, based on clear and convincing evidence, that the respondent meets the criteria for involuntary commitment, an order shall be entered for:

- (1) Outpatient treatment; or
- (2) Inpatient treatment.

The least restrictive alternative necessary and available for the treatment of the respondent's mental illness shall be ordered.

(b) The petition for involuntary commitment shall be dismissed if the criteria for commitment is not proved.

Section 12. A respondent may be committed to outpatient treatment if the probate court finds, based upon clear and convincing evidence that: (i) the respondent is mentally ill; (ii) as a result of the mental illness the respondent will, if not treated, continue to suffer mental distress and will continue to experience deterioration of the ability to function independently; and (iii) the respondent is unable to make a rational and informed decision as to whether or not treatment for mental illness would be desirable.

Section 13. (a) At the final hearing on a petition for commitment seeking the involuntary commitment of a respondent, the probate court may order that the respondent participate in outpatient treatment provided by a designated mental health facility.

(b) The probate court shall not order outpatient treatment unless the designated mental health facility has consented to treat the respondent on an outpatient basis under the terms and conditions set forth by the probate court.

(c) If outpatient treatment is ordered, the order of the probate court may state the specific conditions to be followed and shall include the general condition that the respondent follow the directives and treatment plan established by the designated mental health facility.

(d) Pursuant to this section, an order for outpatient treatment shall not exceed 150 days.

(e) The designated mental health facility shall immediately report to the probate court any material noncompliance with the outpatient treatment order. The report shall set forth the need for revocation of the outpatient treatment order and shall be verified and filed with the probate court.

(f) The probate court shall set a hearing to consider the motion for revocation of the outpatient treatment order. The hearing procedures and safeguards set forth in this act, applicable to a petition for involuntary commitment, shall be followed. If at the hearing, the probate court finds, based upon clear and convincing evidence, that the conditions of outpatient treatment have not been met, and that the respondent meets inpatient criteria, the probate court may enter an order for commitment to inpatient treatment.

(g) No county shall be financially responsible for the cost of provision of outpatient mental health services ordered pursuant to this act. The cost for the provision of outpatient services are not allowable costs under section 22-52-14, Code of Alabama 1975.

Section 14. (a) A respondent may be committed to inpatient treatment if the probate court finds, based upon clear and convincing evidence that: (i) the respondent is mentally ill; (ii) as a result of the mental illness the respondent poses a real and present threat of substantial harm to self and/or others; (iii) the respondent will, if not treated, continue to suffer mental distress and will continue to experience deterioration of the ability to function independently; and (iv) the respondent is unable to make a rational and informed decision as to whether or not treatment for mental illness would be desirable.

(b) If the probate judge finds that no treatment is presently available for the respondent's mental illness, but that confinement is necessary to prevent the respondent from causing substantial harm to himself or to others, the order committing the respondent shall provide that, should treatment for the respondent's mental illness become available at any time during the period of the respondent's confinement, such treatment shall be made available to him immediately.

Section 15. (a) At the final hearing on a petition for involuntary commitment or a hearing for the revocation of a prior order for commitment to outpatient treatment, the probate court may order that the respondent be committed to: (i) the department for inpatient treatment at a state mental health facility, or (ii) the department for inpatient treatment at a designated mental health facility.

(b) Pursuant to this section, an order for inpatient treatment shall not exceed 150 days.

(c) No county shall be required to pay the cost of inpatient treatment provided at a state mental health facility or inpatient treatment authorized by the department at a designated mental health facility.

Section 16. (a) A petition for renewal of an inpatient commitment order may be filed by the director of a state mental health facility or his designee at least 30 days prior to the expiration of the current commitment order. The petition, together with a copy of the original commitment order and copies of any subsequent renewal commitment orders, shall be filed with the probate court of the county where the facility is located. The petition shall explain in detail why renewal of the order is being requested, and shall further explain in detail why less restrictive conditions of treatment are not appropriate.

(b) Such probate court may consider, hear, and enter appropriate orders pursuant to this section or may request that the case be heard by a special judge of probate.

(c) Whenever and wherever it shall become necessary that a special judge of probate be provided to hear and enter appropriate orders with regard to the renewal of commitment orders pursuant to the provisions of this section, then it shall be the responsibility of the probate judge in the county so affected by location of the state mental health facility to determine, select and appoint from time to time such probate judge; who shall be paid that compensation as determined by the probate judge in that county not to exceed \$100.00 per case. The fee set to compensate the special probate judge shall be allowable costs under section 22-52-14, Code of Alabama 1975. The county wherein the hearing for the renewal of a commitment order is held shall also be allowed a fee of \$20.00 per case to compensate the county for additional record keeping. This compensation shall be allowable costs under section 22-52-14, Code of Alabama 1975.

(d) Any special judge of probate appointed under the provisions of subsection (c) of this section shall be vested with all authority, duties, responsibilities and judicial functions of the probate court having jurisdiction over any person involuntarily committed by the probate court of any county in the state of Alabama.

(e) Any special judge of probate appointed under the provisions of subsection (c) of this section shall be a citizen of the state of Alabama, shall have previously served for a minimum of six years as a judge of probate in this state, or shall be licensed to practice law in this state, and shall take the present oath of office upon entering his official duties and serve without bond.

(f) Any hearing conducted under the provisions of this section shall be conducted in the facilities provided by the department where such persons committed as patients are located.

(g) The judge of probate, hearing the case, shall conduct a hearing, within 30 days after the date of petition, to consider the petition for renewal of the commitment order.

(h) The judge of probate of the county where the facility is located shall appoint an attorney to serve as guardian ad litem to represent and to protect the rights of the respondent. Such appointment shall be in writing and acceptance of appointment shall be returned to the judge of probate at least five days prior to the hearing.

(i) Adequate written notice shall be provided to the respondent prior to the hearing.

(j) The commissioner shall designate one or more members of his staff to serve as advocate in support of the petition and such advocate shall be required to be an attorney.

(k) The hearing shall be conducted in accordance with section 22-52-9, Code of Alabama 1975. A copy of the order shall be forwarded to the probate court having original jurisdiction. The burden of proof shall be to prove, based on clear and convincing evidence, the criteria as prescribed in this act.

(l) The department shall provide the advocate in support of the petition and the expert witness at no cost to the state general fund; and all other costs allowable by law shall be paid as prescribed in section 22-52-14, Code of Alabama 1975.

(m) Any order renewing an order for commitment to inpatient treatment shall not exceed a period of one year.

Section 17. A respondent committed to inpatient treatment may be transferred from any treatment facility to another treatment facility when deemed to be in the best interest of the respondent. Any law enforcement officer or any designated employee of the department or designated mental health facility shall have the authority to transport committed respondents from any facility to any other facility within the state of Alabama so long as it is in the best interest of the committed respondents.

Section 18. Section 22-52-11, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-11.

“The probate court involuntarily committing a respondent shall retain jurisdiction over the respondent concurrently with the probate court of the county in which the respondent is subsequently located for so long as the respondent is subject to the commitment order, and the probate court committing the respondent may hold any hearing regarding the respondent at any place within the state of Alabama where the respondent may be located.”

Section 19. Section 22-52-12, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-12.

“The probate judge shall order one or more persons or law enforcement officers to convey any respondent involuntarily committed for inpatient treatment to the department or to a designated mental health facility as the court may order, and all necessary expenses incurred by the persons or officers conveying the respondent shall be taxed as costs of the proceeding.

Section 20. Section 22-52-13, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-13.

“(a) Any respondent involuntarily committed by the probate court to the custody of the department or designated mental health facility as the court may order, who is entitled to care and treatment at a facility operated by the United States veterans administration or other agency of the United States government, may be transferred by the department to the United States veterans administration or other agency of the United States on such terms and conditions as may be agreed upon by the department and the veterans administration or other agency. Upon such transfer, the committed respondent shall be subject to the applicable regulations of the veterans administration or other agency of the United States.

“(b) The chief officer of the veterans administration hospital or other facility operated by the United States to which committed respondents are transferred, as provided in subsection (a) of this section or under the law in effect at the time of commitment, shall have the same powers as are exercised by the directors of state mental health facilities with respect to the retention, transfer, treatment or discharge of committed respondents, and such chief officer and the physicians of such facility shall be exempt from attending court as witnesses in the same manner and to the same extent provided by law for directors and physicians of state mental health facilities.

“(c) The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia committing a respondent to the United States veterans administration or other agency of the United States government or any facility operated by such administration or agency for care or treatment shall have the same force and effect as to the respondent while in this state as in the state or district in which is situated the court entering such judgment or making such order.”

Section 21. Section 22-52-15, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-52-15.

“An appeal from an order of the probate court granting a petition seeking to commit a respondent to the custody of the department or designated mental health facility as the court may order lies to the circuit court for trial de novo unless the probate judge who granted the petition was learned in the law, in which case the appeal lies to the Alabama court of civil appeals on the record. Notice of appeal shall be given in writing to the probate judge within five days after

the respondent has received actual notice of the granting of the petition and shall be accompanied by security for costs, to be approved by the probate judge, unless the probate judge finds that the respondent is indigent, in which case no security for costs shall be required. Upon the filing of a notice of appeal, the probate judge shall determine and enter an order setting forth the limitations to be placed upon the liberty of the respondent pending the appeal. Upon the filing of a notice of appeal, the probate judge shall certify the record to the clerk of the reviewing court. The petition shall be set for hearing by the reviewing court within 60 days of the date the notice of appeal is filed in the probate court, and such hearing shall not be continued except upon motion in writing by the respondent for good cause. The costs of the proceedings in the reviewing court shall be taxed in the same manner as in the probate court. All requirements relative to hearings in probate court shall apply to appeals heard in the circuit court."

Section 22. (a) The department shall designate certain mental health facilities that shall have the authority to receive respondents for evaluation, admission, detention, treatment and discharge pursuant to the provisions of this act.

(b) The department shall establish standards of care and services to be rendered by each designated mental health facility and shall certify those facilities designated to provide evaluation, admission, detention, treatment and discharge.

(c) The probate judges of the state of Alabama may commit respondents, who meet the criteria for involuntary commitment, to a designated mental health facility. Provided, however, that such designated mental health facility shall not be required to accept a committed respondent if they are unable to provide proper services and treatment.

(d) The designated mental health facilities shall have the authority to contract with public or private mental health facilities, subject to approval by the department, for care and treatment of committed respondents.

Section 23. With regard to those patients who shall have been committed to state mental health facilities for 150 days or more as of the effective date of this act, the directors of such facilities or their designees shall petition for renewal of the commitment orders affecting such patients as appropriate. Said petitions shall be filed within a reasonable period of time not to exceed one year. All proceedings under this section shall be conducted in accordance with the provisions of Section 16 of this act.

Section 24. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 25. All laws or parts of laws which conflict with this act are hereby repealed; and sections 22-52-1 and 22-52-10, Code of Alabama 1975, are hereby specifically repealed.

Section 26. This act shall become effective January 1, 1992, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 3:30 P.M.

Act No. 91-441

H. 34 — Reps. Petelos, Gaines, Buskey (JL),
Sanderson, McDowell, Thomas,
McClain, Spratt, Curry, Box

AN ACT

To provide a community punishment and corrections program and procedures as an alternative punishment for eligible offenders; to provide for local community punishment and corrections planning boards in the judicial circuit or counties to develop a local community punishment and corrections plan to qualify for receipt of funding; to provide for the establishment of such alternative plans and programs whereby state funds may be granted or contracted with or through local governments, county or counties, established authorities and qualified nonprofit human service agencies and entities to provide planning, treatment, guidance, training or other rehabilitative services and programs; to provide authorization for the department of corrections to participate in the plan; to provide for immunity from civil liability for any injury or loss sustained by an offender while performing duties or responsibilities under this act and to provide the effective date of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as the “Alabama Community Punishment and Corrections Act of 1991.”

Section 2. As used in this act, unless the context otherwise requires:

(1) “Application process and procedures” means the criteria and guidelines developed by the department of corrections for the establishment of community plans, the granting of funds for programs authorized herein, and the monitoring, evaluation and review of programs funded herein;

(2) “Board” means the board of directors of the authority;

(3) “Commissioner” means the commissioner of the department of corrections;

(4) “Community” includes the county or counties comprising one or more judicial circuits;

(5) "Community punishment and corrections authority" means a public corporation organized pursuant to the provisions of this act;

(6) "Community punishment and corrections program" means any program designed and maintained by an authority or nonprofit entity for the purpose of punishing and for correcting a person convicted of a felony or misdemeanor or adjudicated a youthful offender and which may be imposed as part of a sanction, including, but not limited to confinement, work release, day reporting, home detention, restitution programs, community service, education and intervention programs, and substance abuse programs;

(7) "Community punishment and corrections plan" means a document prepared by an authority, or nonprofit entity, and submitted to the department of corrections in accordance with the requirements set forth in the application process and procedure, which identifies proposed community-based programs to be implemented within the county in accordance with the terms of this act and justifies the funding of such programs with regard to local need and community support;

(8) "County commission chairperson" includes the chairman of the county commission or his/her representative;

(9) "County inmate" means a person convicted of a misdemeanor;

(10) "Court" means the trial judge exercising sentencing jurisdiction over an eligible offender under the act and includes any successor of such trial judge;

(11) "Department" means the department of corrections;

(12) "Eligible" means a person who has committed an offense not excluded by subdivision 13 herein and who meets the criteria of Section 6 herein;

(13) "Excluded felony offenders" means one who is convicted of any of the following felony offenses: murder, kidnapping in the first degree, rape in the first degree, sodomy in the first degree, arson in the first degree, selling or trafficking in controlled substances, robbery in the first degree, sexual abuse in the first degree, forcible sex crimes, lewd and lascivious acts upon a child, or assault in the first degree if said assault leaves the victim permanently disfigured or disabled;

(14) "Governing body" means with respect to a county, its county commission or other like governing body exercising the legislative functions of a county;

(15) "Incorporators" means the persons forming a public corporation pursuant to the provisions of this act;

(16) "Nonprofit entity" means any not-for-profit organization, agency or other entity other than a community punishment and corrections authority that provides treatment, guidance, training or other rehabilitation services to individuals, families or groups in such areas as health, education, vocational training, special education, social services, psychological counseling, and alcohol and drug treatment;

(17) "Plan" means the community punishment and corrections plan defined in subdivision (7) of this section;

(18) "Recipient" includes any entity receiving directly or indirectly any financial grant or contractual remuneration under this act;

(19) "Renovation" means the repair, remodeling, alteration or expansion of existing buildings or structures to make them habitable or suitable for community punishment and corrections program operations, and includes the acquisition and installation of necessary equipment;

(20) "Restitution" means payment to the victim who has suffered financial losses as a result of a crime. Restitution shall include, but not be limited to, payment in cash or in kind for the value of stolen or damaged property; for medical expenses due to physical, emotional and/or psychological trauma; wages lost as a result of time absent from work; and value of property lost or transferred through theft or exercise of control by deception or fraud;

(21) "State inmate" means a person convicted of a felony;

(22) "User fees" means fees assessed under a community punishment and corrections program to help defray the costs of such programs;

(23) "Victim service officer" means a person employed to directly assist crime victims and their families with court attendance, restitution, compensation, property return, victim impact statements and other needs expressed; and

(24) "Youthful offender" means a person adjudicated as a youthful offender.

Section 3. (a) There is hereby authorized in each county or group of counties of the state, a community punishment and corrections program for state and county inmates or youthful offenders in custody of the county. Such program may be established by a county or such community punishment and corrections authorities or other nonprofit entities as provided herein.

(b) The department is authorized to contract with such counties, authorities or other nonprofit entities as provided herein

concerning the costs of maintenance, including medical expenses, of state inmates participating in any program authorized under this act or under any county program functioning pursuant to any state or local act.

(c) The department shall promulgate rules and regulations establishing conditions for state inmates participation in the community punishment and corrections program, the observance of which may be a condition to such participation.

(d) A state inmate incarcerated in a state facility may be approved by the department for participation in a community punishment and corrections program established under this act and be assigned to a program in such county from which he was sentenced if a community punishment and corrections program under this act has been established in such county and if the sentencing judge of such county authorizes the inmate to participate in the program. An inmate may be assigned to a community punishment and corrections program in another county if the presiding judge of the other county and the sentencing judge agree to such assignment and if the county has agreed in the contract to accept inmates originally sentenced in other counties. In the event the sentencing judge is unavailable due to death, retirement, or any other reason, the presiding judge from the sentencing circuit shall act in the sentencing judge's stead.

Section 4. The goals of the community punishment and corrections act are:

(1) To promote accountability of offenders to their local community by requiring direct financial restitution to be made to victims of crime and that community service be made to local governments and community agencies representing the community;

(2) To provide a safe, cost-efficient, community punishment and correctional program which provides punishments through the development of a range of sanctions and community services available for the judge at sentencing;

(3) To reduce the number of offenders committed to correctional institutions and jails by punishing such offenders in alternative punishment settings;

(4) To provide opportunities for offenders demonstrating special needs to receive services that enhance their abilities to provide for their families and become contributing members of their community; and

(5) To encourage the involvement of local officials and leading citizens in their local punishment and correctional system.

Section 5. In addition to those otherwise provided by law, the department shall have the following powers, duties, and authority:

(1) Monitor the community punishment and corrections plan within the goals and mandates established herein;

(2) Conduct statewide public education programs concerning the purposes and goals as established herein and make a report to the prison oversight committee of the legislature regarding the effectiveness of diversion of offenders from state and local correctional institutions;

(3) Provide technical assistance to local governments, authorities and other nonprofit entities and agencies, and local community punishment and corrections advisory boards regarding development of a community punishment and corrections plan;

(4) Develop minimum standards, policies, and administrative rules for the statewide implementation of this act;

(5) Develop and implement an application process and procedure;

(6) Review community punishment and corrections plans and award contracts or grants; and

(7) Conduct an audit and annual program evaluation of programs receiving contracts or grants to ensure program accountability.

Section 6. (a) An offender who meets one of the following minimum criteria shall be considered eligible for punishment in the community under the provisions of this act:

(1) Persons who, without this option, would be incarcerated in a correctional institution or who are currently incarcerated in a correctional institution; and

(2) Persons who are convicted of misdemeanors.

(b) The following offenders are excluded from consideration for punishment in the community:

(1) Persons who are convicted of offenses as listed in subdivision (13) of Section 2 above; and

(2) Persons who demonstrate a pattern of violent behavior. In reaching this determination, the court may consider prior convictions and other acts not resulting in conviction or criminal charges, and the offender's behavior while in state or county confinement.

(c) The eligibility criteria established in this section shall be interpreted as guidelines for the benefit of the court in making a determination of eligibility of offenders and assessment of funds under this act.

(d)(1) Notwithstanding any other provision of the law to the contrary, the court is authorized to sentence an eligible offender as defined in this section directly to any appropriate community-based alternative provided, either as a part of or in conjunction with a split sentence as provided for in section 15-18-8 of the Code of Alabama 1975, or otherwise as an alternative to prison; or as a condition for a defendant to meet in conjunction with probation; and under such additional terms and conditions as the court may prescribe. Provided, however, a court cannot sentence an eligible offender to any community punishment and corrections program if such sentencing would cause the offender participation level to exceed the maximum participation level established for that program in its community punishment and corrections plan.

(2) In sentencing an eligible offender to any community-based alternative to incarceration, the court shall possess the authority to set the duration of the sentence for the offense committed to any period of time up to the maximum sentence within the appropriate sentence range for the particular offense.

(3) The court may alter the sentence imposed for a violation of the conditions imposed by the court; after a hearing, the court may:

a. If the defendant violates a condition of the sentence at any time prior to the expiration or termination of the term of the sentence, the court may implement one or more of the following options:

1. Continue the offender on the existing sentence;
2. Issue a formal or informal warning to the offender that further violations may result in revocation of the sentence;
3. Conduct a formal or informal warning to reemphasize the necessity of compliance with the conditions of the sentence;
4. Modify the conditions of serving the sentence, possibly including the inclusion of short periods of confinement in local facilities for time for which supervision of sentence was formerly given; or
5. Revoke the sentence as listed in paragraph b below.

b. If the court revokes the sentence, it may impose the sentence that was suspended at the original hearing or any lesser sentence, including any option listed in subsection (d), subdivision (1) of this section. If the sentence is revoked or modified and the court orders the offender to serve any period of confinement, an offender

originally convicted of a misdemeanor shall serve such confinement in the county jail and an offender originally convicted of a felony shall serve such confinement in a state correctional facility.

c. If revocation results in a sentence of confinement, credit shall be given for all time spent in custody prior to revocation. Full credit shall be awarded for full-time confinement in facilities such as city/county jails, state prisons, and boot camps. Credit for other penalties, such as work release programs, intermittent confinement, and home detention, shall be left to the discretion of the court, with the presumption that time spent subject to such other penalties will receive half-credit. The court shall also give significant weight to time spent in confinement so that total credited time spent in confinement may not exceed the term of confinement of the original sentence.

d. The court shall not revoke the sentence and order the confinement to prison of the offender unless the court finds on the basis of the original offense and the offender's intervening conduct that:

1. No measure short of confinement will adequately protect the community from further criminal activity by the offender; or

2. No measure short of confinement will avoid depreciating the seriousness of the violation.

e. The willful failure of an inmate to remain within the extended limits of his confinement or to return to the place of confinement within the time prescribed shall be deemed an escape from a state penal institution in the case of a state inmate and an escape from the custody of the sheriff in the case of a county inmate and shall be punishable accordingly.

f. The victim will be notified in accordance with procedures established in the community punishment and corrections plan prior to sentencing under this act.

g. Restitution, when appropriate, shall be ordered by the court as a condition for a community-based sentence under this act in addition to any mandatory victim assessment fees.

1. Nothing herein shall prevent a court from sentencing an eligible defendant to community-based punishment in conjunction with a suspended sentence confinement pursuant to the split sentences or probation.

2. The state of Alabama and any county or municipality are hereby authorized to become employers of community punishment and corrections inmates under this act, and as such, may employ inmates to perform any state or county or municipal job available, including, but not limited to, road or bridge work, garbage collection and public grounds maintenance. Inmates so employed shall not be eligible to participate in group health, accident and life

insurance programs or retirement programs provided regular state or county or municipal employees. Workmen's compensation benefits may be provided such inmates at the discretion of the state or employing county or municipality.

3. Inmates employed under this section shall be paid at least the federally established minimum wage.

4. Counties are hereby authorized to utilize inmates or others required by a court of competent jurisdiction to perform community service in county work, including, but not limited to, removal of debris or trash from roads and rights-of-way, road or bridge work, garbage collection, and public grounds maintenance.

5. State and county inmates performing community service shall not be entitled to any compensation.

Section 7. (a) A community punishment and corrections plan shall be developed and submitted to the department which sufficiently documents the local need and support for the proposed program. The community punishment and corrections plan shall have the approval of the county commission(s) in the affected counties prior to submission to the department. Any such plan shall specifically state the maximum number of inmates eligible to participate in any such program.

(b) The format for any community punishment and corrections plan shall be specified by the department of corrections in its application process and procedures. Funding and grant evaluation criteria shall be outlined in the application process and procedures to be developed by the department in order that each applicant may know the basis upon which funds will be granted.

(c) Participation in the programs set forth in this act is voluntary. Any participating authority or other nonprofit entity may notify the commissioner of its intention to withdraw from participation in the community punishment and corrections program contract. The withdrawal will become effective on the last day of the grant year.

Section 8. The proposed community punishment and corrections plan may be drafted by an authority established under this act, or in lieu of the establishment of an authority, a county or another qualifying nonprofit entity as described in subsection (b) of Section 9 herein.

Section 9. (a) Should an authority be formed by one or more counties under this act, such authority shall be eligible for direct financial contracts/grants under the act.

(b) A nonprofit entity other than a community punishment and corrections authority may be eligible under the provisions of

this act to receive grants or contracts so as to carry out the provisions and purposes of this act only in a county which has not established a local community punishment and corrections authority and only after a county commission in such a county has received notice that such nonprofit entity desires to seek a grant to carry out the provisions of this act and said county fails to establish a community punishment and corrections authority within 30 days after such notification. Under such circumstances, the county commission may elect to endorse the community punishment and corrections plan submitted by such nonprofit entity. In such event, such nonprofit entity shall perform the same duties, obligations and functions as a community punishment and corrections planning authority together with performing the other corrections functions provided for in this act. Nothing in this act shall prohibit a nonprofit entity from receiving funds indirectly for such a program nor shall a nonprofit entity have the authority to obligate county funds.

(c) Nothing in this act shall prevent an entity eligible for funding under this act to utilize common facilities or personnel and to share other overhead costs with county correctional or work release programs.

Section 10. (a) A public corporation may be organized pursuant to the provisions of this act in any county or group of counties located in one or more judicial circuits. In order to incorporate such a public corporation, any number of natural persons, not less than three, who are duly qualified electors of a proposed county(s) shall first file a written application with the county commission or any two or more thereof, and such applications shall:

(1) Recite the names of each county commission with which such application is filed;

(2) Contain a statement that the applicants propose to incorporate an authority pursuant to the provisions of this act;

(3) State the proposed location of the principal office of the authority;

(4) State that each of the applicants is a duly qualified elector of the county, or if there is more than one, at least one thereof; and

(5) Request that the governing body of such determining subdivision adopt a resolution declaring that it is wise, expedient and necessary that the proposed authority be formed, approving its certificate of incorporation and authorizing the applicants to proceed to form the proposed authority by the filing for record of a certificate of incorporation in accordance with the provisions of this act. Every such application shall be accompanied by a form of certification of

incorporation of the proposed authority and by such other supporting documents or evidence as the applicants may consider appropriate.

As promptly as may be practicable after the filing of the application with it in accordance with the provisions of this section, the county commissioners of the county with which the application was filed shall review the contents of the application, and the accompanying form of certificate of incorporation and shall adopt a resolution either denying the application or declaring that it is wise, expedient and necessary and that the proposed authority be formed, and that a community punishment and corrections program be established in such jurisdiction, approving the form of its certificate of incorporation and authorizing the applicants to proceed to form the proposed authority by the filing for record of such a certificate of incorporation in accordance with this act. While it shall not be necessary that any such resolution be published in a newspaper or posted, each governing body with which the application is filed shall also cause a copy of the application to be spread upon or otherwise made a part of the minutes of the meeting of such governing body at which final action upon said application is taken.

(b) Within 40 days following the adoption of an authorizing resolution, or if there is more than one, the last adopted thereof, the applicants shall proceed to incorporate an authority by filing for record in the office of the judge of probate of the county in which the principal office of the authority is to be located, a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in form and executed in the manner provided in this act and shall also be in the form theretofore approved by the governing body of each determining subdivision.

(c) The certificate of incorporation of the authority shall state:

(1) The names of the persons forming the authority, and that each of them is a duly qualified elector of the county, or if there is more than one, at least one thereof;

(2) The name of the authority (which may be a name indicating in a general way the area proposed to be served by the authority and shall include the words "... Community Punishment and Corrections Authority," or "The Community Punishment and Corrections Authority of . . .," the blank spaces to be filled in with the name of one or more of the counties or other geographically descriptive word or words, such descriptive word or words not, however, to preclude the authority from exercising its powers in other geographical areas), unless the secretary of state shall determine

that such name is identical to the name of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty in which case the incorporators may insert additional identifying words so as to eliminate said duplication or similarity;

(3) The period for duration of the authority; if the duration is to be perpetual, subject to the provisions of subsection (i) of this section that fact shall be stated;

(4) The name of each county together with the date on which the governing body thereof adopted an authorizing resolution;

(5) The location of the principal office of the authority, which shall be within the boundaries of the county, or if more than one, at least one thereof;

(6) That the authority is organized pursuant to the provisions of this act;

(7) The number of members of the board of directors of the authority, which shall be an odd number not less than three, the duration of their respective terms of office, which shall not be in excess of six years; and subject to the provisions of subsection (g) of this section, the manner of their election or appointment;

(8) Any provisions, not inconsistent with subsection (i) of this section, relating to the vesting of title to its properties upon its dissolution;

(9) Any other related matters relating to the authority that the incorporators may choose to insert and that are not inconsistent with this act or with the laws of the state; and

(10) The certificate of incorporation shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgments to deeds. When the certificate of incorporation is filed for record, there shall be attached to it:

a. A copy of the application as filed with the county commission(s) in accordance with the provisions of subsection (a) of this section;

b. A certified copy of the authorizing resolution adopted by the county commission(s); and

c. A certificate by the secretary of state that the name proposed for the authority is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty.

(d) Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the authority shall come into existence and shall constitute a public corporation under name set forth in said certificate of incorporation. The judge of probate shall thereupon send a notice to the secretary of state that the certificate of incorporation of the authority has been filed for record.

(e) The certificate of incorporation of any authority incorporated under the provisions of this act may at any time and from time to time be amended in the manner provided in this section. The board shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption by the board of a resolution proposing an amendment to the certificate of incorporation of the authority, the chairman of the board and the secretary of the authority shall sign and file a written application in the name of and on behalf of the authority, under its seal, with the governing body of the county commission(s), requesting such county commission(s) to adopt a resolution approving the proposed amendment, and accompanied by a certified copy of the said resolution adopted by the board proposing the said amendments to the certificate of incorporation, together with such documents in support of the application as the said chairman may consider appropriate. As promptly as may be practicable after the filing of the said application pursuant to the foregoing provisions of this section, the county commission(s) shall review the said application and shall adopt a resolution either denying the said application or authorizing the proposed amendment. While it shall not be necessary that any such resolution be published in a newspaper or posted, the county commission(s) with which such application is filed shall also cause a copy of the said application and all accompanying documents to be spread upon or otherwise made a part of the minutes of the meeting of said governing body at which final action upon the said application is taken. The certificate of incorporation of an authority may be amended only after the filing of such an application therefore and the adoption by the county commission of each county of an approving resolution.

Within 40 days following the adoption by the county commission of a resolution approving the proposed amendment, or if there is more than one, the last adopted of such approving resolutions, the chairman of the board of the authority and the secretary of the authority shall sign and file for record in the office of the judge of

probate with which the certificate of incorporation of the authority was originally filed, a certificate in the name of and in behalf of the authority, under its seal, reciting the adoption of said respective resolutions by the board and by the county commission(s) and setting forth the said proposed amendment. The judge of probate for such county shall thereupon record said certificate in an appropriate book in his office. When such certificate has been so filed and recorded, such amendment shall become effective, and the certificate of incorporation shall thereupon be amended to the extent provided in the amendment. No certificate of incorporation of an authority shall be amended except in the manner provided in this section.

(1) Each authority shall have a board of directors composed of the number of directors provided in the certificate of incorporation, provided, however, that the board shall consist of at least five directors who shall be appointed by the county commission(s) of the counties involved. Unless provided to the contrary in its certificate of incorporation, all powers of the authority shall be exercised, and the authority shall be governed by the board or pursuant to its authorization. The directors or persons shall serve such terms of office as shall be specified in the certificate of incorporation of the authority. Any county commissioner or other county officer or employee shall be eligible for appointment to the board.

(2) If, at the expiration of any term of office of any director, a successor thereto shall not have been elected or appointed, then the director whose term of office shall have expired shall continue to hold office until his successor shall be so elected or appointed. If at any time there should be a vacancy on the board, whether by death, resignation, incapacity, disqualification or otherwise, a successor director to serve for the unexpired term applicable to such vacancy shall be elected or appointed by one county commission(s) of the counties involved. Each election or appointment of a director, whether for a full term or to complete an unexpired term, shall be made not earlier than 30 days prior to the date on which such director is to take office. Any director, irrespective of by whom elected or appointed, shall be eligible for reelection or reappointment.

(3) Each director shall serve as such without compensation but may be reimbursed for expenses actually incurred by him in and about the performance of his duties. A majority of the directors shall constitute a quorum for the transaction of business, but any meeting of the board may be adjourned from time to time by a majority of the directors present or may be so adjourned by a single director if such director is the only director present at such meeting. No vacancy in the membership of the board shall impair

the right of a quorum to exercise all the powers and perform all the duties of the board. The board shall hold regular meetings at such times as may be provided in the bylaws of the authority, may hold other meetings at any time and from time to time upon such notice as may be required by the bylaws of the authority, and must, upon call of the chairman of the authority or a majority of the total number of directors, hold a special meeting, none of which meetings shall be subject to the provisions of section 13A-14-2, Code of Alabama 1975, or other similar law.

(f) Every authority shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this act, including, without limiting the generality of the foregoing, the powers granted nonprofit corporations under the Alabama Nonprofit Corporation Act.

(g) A board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the authority shall be dissolved provided, however, that an authority may not dissolve if there are any offenders participating in a community punishment and corrections program under its supervision. Upon filing for record of a certified copy of the said resolution in the office of the judge of probate with which the authority's certificate of incorporation is filed, the authority shall thereupon stand dissolved and in the event it owned any property at the time of its dissolution, the title to all its properties shall thereupon pass to the authorizing counties.

(h) Where a group of counties combine and approve the creation of an authority as provided herein, or otherwise establish a community punishment and corrections program, the application for funding to the department shall contain a cooperative agreement indicating the willingness of each county to collaborate on the proposed program and to meet specific objectives. In addition, such multi-jurisdictional applications shall provide for appointment of one fiscal agent to coordinate the financial activities of the grant.

(i) The provisions of articles 2 and 3 of chapter 16 of Title 41, Code of Alabama 1975, or other similar laws shall not apply to an authority organized under this act, its directors, or any of its officers, agents or employees in their capacities as such.

Section 11. (a) Community punishment and corrections funds may be used to develop or expand the range of community punishments and services at the local level. Community-based programs options may include, but are not limited to, the following:

(1) Community service supervision; victim restitution, community detention and restitution centers; victim-offender reconciliation programs; home confinement/curfew; electronic surveillance;

intensive supervision probation; alcohol/drug outpatient treatment and psychiatric counseling;

(2) Short-term community residential treatment options which involve close supervision in a residential setting may include, but are not limited to, the following options: detoxification centers; community detention centers for special needs offenders, and probation and parole violators; and inpatient drug/alcohol treatment;

(3) Residential in-house drug and alcohol treatment for detoxification and residential and nonresidential drug and alcohol counseling;

(4) Individualized services which provide evaluation and treatment for special needs of the population served under this act. Such services may include the purchase of psychological, medical, educational, vocational, drug and alcohol urine screening, and client specific plan diagnostic evaluations. Other services which may be pursued on an individualized basis may include job training, alcohol and drug counseling, individual and family counseling, educational programs leading to a GED certificate, or transportation subsidies.

(b) Community punishment and corrections funds may also be used to acquire, renovate, and operate community facilities established to provide the options and services set forth in subsection (a) of this section.

(c) Counties, authorities and other nonprofit entities receiving funding herein may provide or contract with qualified proprietary, nonprofit or governmental entities for the provision of services under this act.

(d) Any options or services established under this act may serve offenders from the entire judicial circuit in which the county is located.

(e) As a part of a community punishment and corrections plan, user fees may be assessed to help defray the cost of the plan. User fees paid by an offender participating in any option or service established under this act shall not diminish the payment of restitution by the offender to the victim of the crime for which he or she was sentenced.

(f) The employer of an inmate involved in a community punishment and corrections program pursuant to this act shall send the inmate's wages directly to the county or its designated agent. Of each inmate's earnings, 25 percent of his gross wages shall be

applied to costs incident to the inmate's confinement, and a minimum of an additional 20 percent shall be applied, 10 percent to payment of court costs, fines, court-ordered attorney fees, and other court-ordered fees or assessments and 10 percent to restitution. The remainder of the inmate's wages may be credited to his account with the county and may be paid out for dependent care, savings, and spending money. Modes of accounting and disbursement of these funds shall be addressed in the community punishment and corrections plan.

Section 12. (a) Administrative costs connected with the expenditures of community punishment and corrections funds under this act shall not exceed a percentage amount established by the commissioner.

(b) The chief examiner of the department of examiners of public accounts is directed to develop a uniform accounting system conforming to generally accepted accounting principles. Such uniform accounting system shall be subject to the approval of the state chief examiner of public accounts. Community punishment and corrections programs shall establish and maintain the uniform accounting system.

(c)(1) The annual reports and all records of accounts and financial records of all funds received by grant, contract or otherwise from state, local or federal sources, shall be subject to audit annually by the chief examiner of the department of public accounts or the department of corrections, or both. The audit may be performed by a licensed independent certified public accountant approved by the chief examiner of the department of public accounts. The cost of any such audit shall be paid by the contracting entity.

(2) All audits shall be completed as soon as practicable after the end of the fiscal year of the board. One copy of each audit shall be furnished to the board, if established, the department of corrections and the chief examiner of the department of public accounts. Copies of each audit shall also be made available to the press.

Section 13. (a) In order to remain eligible for continued grant funding, a recipient must substantially comply with the standards and administrative regulations of the department defining program effectiveness. Each recipient will participate in an evaluation to determine local and state program effectiveness. The form of this evaluation will be determined by the department.

(b) Continued grant funding shall be based on demonstrated effectiveness in reducing the number of commitments of eligible offenders to state penal institutions or local jails which would likely have occurred without the programs funded under this act.

(c) Subject to funding availability, each county, participating authority or other nonprofit entity is eligible to receive additional incentive funding for extending programs if such programs exceed the objectives of the approved community punishment and corrections plan.

(d) If the commissioner determines that there are reasonable grounds to believe that a participating county, authority or other nonprofit entity is not complying with its plan, or the minimum standards, the commissioner shall give 30 days written notice to the participating entity, as well as to the county commission in the affected county. If the commissioner finds that such a participating entity is not complying with its plan or the minimum standards established in this act, the commissioner shall require the entity to provide a letter of intent as to how and when specific deficiencies identified by the commissioner will be corrected. If no such letter is submitted to the commissioner within the time limit specified, or if such deficiencies are not corrected within 45 days after such a letter has been submitted to the entity by the commissioner, the commissioner may suspend any part or all of the funding until compliance is achieved.

Section 14. The recovery of damages under any judgment or judgments against an authority established under this section shall be limited to \$100,000.00 for bodily injury or death for one person in any single occurrence. Recovery of damages under any judgment or judgments against an authority shall be limited to \$300,000.00 in the aggregate where more than two persons have claims or judgments on account of bodily injury or death arising out of any single occurrence. Recovery of damages under any judgment or judgments against an authority shall be limited to \$100,000.00 damages or loss of property arising out of any single occurrence. In the event that more than one county combines to create a single authority under this act, the aforementioned limitations shall be multiplied by the number of participating counties. Counties shall be exempt from civil liability for any injury or loss to any person resulting from the operation of a community punishment and corrections program established by an authority under this act. This section does not affect, and shall not be construed as limiting or otherwise affecting, any other immunities from civil liability or defenses established under the Constitution of Alabama or any other section of the Code or common law, to which said entities might be entitled.

Section 15. An authority contracting with the department under this act shall maintain general liability insurance in an amount sufficient to insure against loss resulting from bodily injury, death or property damage, subject to the limitations on

recovery of damages contained in this act and any other immunities from civil liability or defenses established under the Constitution of Alabama or any other section of the Code or common law, to which said entities might be entitled.

Section 16. In the event a state inmate, as defined in this act, participating in a community punishment and corrections program develops a medical condition which, in the opinion of a physician licensed to practice medicine in this state, would require treatment, the cost for which would exceed \$2,000.00, such inmate shall be transferred within three days to the custody of the department and shall receive treatment as other state inmates.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. This act shall become effective October 1, 1991, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 3:35 P.M.

Act No. 91-442

H. 748 — Reps. Morton, Drake, Campbell, Butler, Powell, Parker (T), Ford, Payne, Biddle, Haynes, Morrow, Hawkins, Letson, Black (M), Anderson, Newman, Millican, Petelos, Rogers (F), Rich, Smith (R), Haney, Rogers (J), McClain, Barnes, Carns, McDaniel, Sanderford, Dolbare, Layson, Cosby, Curry, Bugg, McMillan, Cullins, Buskey (JE), Gaston, Johnson, Beasley, Mathis, Bowling, Harvey, Buskey (JL), Turnham, Penry, McKee, Hooper, Kvalheim, Laird, Williams, Harper, Parker (P), Freeman, Hill

AN ACT

To prohibit the Library Enhancement Fund in the education appropriations from receiving less than 70 percent of its appropriation in any fiscal year in which proration is declared.

Be It Enacted by the Legislature of Alabama:

Section 1. In any fiscal year in which the governor is caused to prorate allotments to prevent an overdraft or deficit in appropriations for the support, maintenance and development of public education in the state, the Library Enhancement Fund shall not receive less than 70 percent of the funds appropriated to it.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 3:40 P.M.

Act No. 91-443

H. 678 — Reps. Knight, Hill

AN ACT

To provide that all full-time employees and executive officers of the Developing Alabama Youth Foundation may elect to become members of the Teachers' Retirement System of Alabama; also to provide that said Foundation and its employees shall assume all costs, both contributory and administrative; and that no costs shall devolve upon the state.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of the Developing Alabama Youth Foundation may, by resolution legally adopted to conform to the rules prescribed by the Board of Control of the Teachers' Retirement System, elect to have its executive officers and full-time employees, from whatever source and in whatever manner paid, become eligible to participate in the Teachers' Retirement System of Alabama, subject to all rules, regulations and conditions thereof.

Section 2. The governing body of the Developing Alabama Youth Foundation, having made an election through a resolution as provided in section one of this act, its employees and executive officers may participate in and be entitled to all benefits of the Teachers' Retirement System of Alabama; provided, that where contributions are made from salaries paid by the Developing Alabama Youth Foundation, the Developing Alabama Youth Foundation shall pay the employer cost, calculated as a percentage of the salaries of those employees, to be contributed as employer contributions in accordance with §16-25-21, Code of Alabama 1975. Such amount shall be paid monthly and at the same time as the members' contributions are made to the Teachers' Retirement System.

Section 3. The governing body of the Developing Alabama Youth Foundation may provide in its resolution to the Teachers' Retirement System's Board of Control that all service rendered by an eligible employee or executive officer to said Foundation, previous to the effective date of said Foundation's election to come under the Teachers' Retirement System, shall be creditable service to such employee or executive officer; provided, that any such provision shall apply only to those employees and officers who were in the active service of the Foundation on the effective date of said Foundation's election to be covered under the Teachers' Retirement System; and provided further, that the said resolution also states that the Developing Alabama Youth Foundation shall assume and pay, as required, all costs necessary to fund the crediting of such previous service, such costs to be determined by the actuary employed by the Teachers' Retirement System Board of Control. All benefits that accrue and are payable to any beneficiary hereunder shall be limited to, and shall not exceed, the amount paid in by the beneficiary and the employer plus his portion of the interest earned and the enhancement of his monies by investing them, less cost of administration, at no cost to the State of Alabama.

Section 4. This bill shall become effective September 1, 1991 upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 3:45 P.M.

Act No. 91-444

H. 706 — Rep. Harper

AN ACT

To expand the purposes for which the Alabama Youth Services Board may expend certain funds appropriated in Act 90-764, section 2C.

Be It Enacted by the Legislature of Alabama:

Section 1. The Alabama Youth Services Board is hereby authorized to expend during the fiscal year ending September 30, 1991 any amount of the \$3,239,667 appropriated for Juvenile Probation Officers' Subsidies by Act 90-764, section 2C which is in excess of the amount required for the payment of juvenile probation officer subsidies, for any purposes determined by said youth services board to be necessary or advisable, including, but not limited

to, expenditures within the Youth Services Program, Youth Services Department School District, and/or capital outlay projects.

Section 2. The provisions of this act are severable. If any portion of this act shall be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions of this act.

Section 3. This act becomes effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 29, 1991

Time: 3:50 P.M.

Act No. 91-445

H. 11 — Rep. Carter

AN ACT

Relating to Athens State College; to repeal Act No. 81-153, S. 392, Regular Session, 1981 (Acts 1981, p. 176), which consolidated the administration of Athens State College and John C. Calhoun Community College; to re-establish two autonomous administrations; and to provide for the appointment of presidents of the colleges, the jurisdictions and operations.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Any law to the contrary notwithstanding, Athens State College shall have a separate administration from John C. Calhoun Community College and a new president for each Athens State College and for John C. Calhoun Community College, in accordance with Section 16-60-111.4, Code of Alabama 1975, as amended.

(b) All laws relating to the management and control of trade schools and junior colleges prescribed by Title 16, Chapter 60 of the Code of Alabama 1975, shall be applicable to each Athens State College and John C. Calhoun Community College, other than Athens State College shall continue to operate as an upper level institution and be funded as a line item as other four-year state institutions and John C. Calhoun shall continue to operate as a comprehensive community college.

Section 2. Act No. 81-153, S. 392, Regular Session of 1981 (Acts 1981, p. 176), is hereby specifically repealed.

Section 3. All laws relating to the management and control of trade schools and junior colleges prescribed by Title 16, Chapter 60 of the Code of Alabama 1975, shall be applicable to each Athens State College and John C. Calhoun Community College.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:00 P.M.

Act No. 91-446

H. 29 — Reps. Gaines, Carns

AN ACT

To provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer; to provide a means for any domestic insurer to transfer its domicile to another state; and to provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger or consolidation or any other lawful method.

Be It Enacted by the Legislature of Alabama:

Section 1. Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in this state. Said domestic insurer will be entitled to like certificates and licenses to transact business in this state and shall be subject to the authority and jurisdiction of this state. Articles of incorporation of such domestic insurer may be amended to provide that the corporation is a continuation of the corporate existence of the original foreign corporation through adoption of this state as its corporate domicile and that the original date of incorporation in its original domiciliary state is the date of incorporation of such domestic insurer.

Section 2. Any domestic insurer may, upon the approval of the commissioner of insurance, transfer its domicile to any other state in which it is admitted to transact the business of insurance,

and upon such a transfer shall cease to be a domestic insurer, and shall be admitted to this state if qualified as a foreign insurer. The commissioner of insurance shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholders of this state.

Section 3. The certificate of authority, agents appointments and licenses, rates, and other items which the commissioner of insurance allows, in his discretion, which are in existence at the time any insurer licensed to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation or any other lawful method shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the commissioner of insurance. Every transferring insurer shall file new policy forms with the commissioner of insurance on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by and under such conditions as approved by the commissioner of insurance. However, every such transferring insurer shall notify the commissioner of insurance of the details of the proposed transfer, and shall file promptly any resulting amendments to corporate documents filed or required to be filed in accordance with sections 10-2A-90 through 10-2A-284, 27-3-17, 27-27-5 and 27-27-22, Code of Alabama 1975.

Section 4. The commissioner of insurance of this state may promulgate necessary rules and regulations to carry out the purposes of this act.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:01 P.M.

Act No. 91-447

H. 35 — Reps. Petelos, Gaines

AN ACT

To amend Section 13A-12-231, Code of Alabama 1975, which provides for the offense of trafficking in illegal drugs, so as to include amphetamine and methamphetamine within the offense.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 13A-12-231, Code of Alabama 1975, is hereby amended to read as follows:

“§13A-12-231.

“Except as authorized in chapter 2, Title 20:

“(1) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of one kilo or 2.2 pounds of cannabis is guilty of a felony, which felony shall be known as ‘trafficking in cannabis.’ If the quantity of cannabis involved:

“a. Is in excess of one kilo or 2.2 pounds, but less than 100 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$25,000.00.

“b. Is 100 pounds or more, but less than 500 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$50,000.00.

“c. Is 500 pounds or more, but less than 1,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$200,000.00.

“d. Is 1,000 pounds or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

“(2) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine or of any mixture containing cocaine, described in section 20-2-25(1), is guilty of a felony, which felony shall be known as ‘trafficking in cocaine.’ If the quantity involved:

“a. Is 28 grams or more, but less than 500 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

“b. Is 500 grams or more, but less than one kilo, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$100,000.00.

“c. Is one kilo, but less than 10 kilos, then such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.00.

“d. Is 10 kilos or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(3) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in section 20-2-23(2) or section 20-2-25(1)a, or four grams or more of any mixture containing any such substance, is guilty of a felony, which felony shall be known as 'trafficking in illegal drugs.' If the quantity involved:

"a. Is four grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of \$100,000.00.

"c. Is 28 grams or more, but less than 56 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of \$500,000.00.

"d. Is 56 grams or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(4) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 1,000 or more pills or capsules of methaqualone, as described in sections 20-2-1, et seq., is guilty of a felony, which felony shall be known as 'trafficking in illegal drugs.' If the quantity involved:

"a. Is 1,000 pills or capsules, but less than 5,000 pills or capsules, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and pay a fine of \$50,000.00.

"b. Is 5,000 capsules or more, but less than 25,000 capsules, that person shall be imprisoned to a mandatory minimum term of imprisonment of 10 calendar years and pay a fine of \$100,000.00.

"c. Is 25,000 pills or more, but less than 100,000 pills or capsules, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.00.

"d. Is 100,000 capsules or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(5) Any person who knowingly sells, manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of 500 or more pills or capsules of hydromorphone

as is described in sections 20-2-1, et seq., is guilty of a felony which shall be known as 'trafficking in illegal drugs.' If the quantity involved:

"a. Is 500 pills or capsules or more but less than 1,000 pills or capsules, such person shall be sentenced to a mandatory term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 1,000 pills or capsules or more, but less than 4,000 pills or capsules, such person shall be sentenced to a mandatory term of imprisonment of 10 calendar years and to pay a fine of \$100,000.00.

"c. Is 4,000 pills or capsules or more but less than 10,000 pills or capsules, such person shall be sentenced to a mandatory term of imprisonment of 25 calendar years and to pay a fine of \$100,000.00.

"d. Is more than 10,000 pills or capsules, such person shall be sentenced to a mandatory term of life in prison without parole.

"(6) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of 3,4-methylenedioxy amphetamine, or of any mixture containing 3,4-methylenedioxy amphetamine, is guilty of a felony, which felony shall be known as 'trafficking in illegal drugs.' If the quantity involved:

"a. Is 28 grams or more, but less than 500 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 500 grams or more, but less than one kilo, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$100,000.00.

"c. Is one kilo, but less than 10 kilos, then such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.00.

"d. Is 10 kilos or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(7) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of 5-methoxy-3,4-methylenedioxy amphetamine, or of any mixture containing 5-methoxy-3,4-methylenedioxy amphetamine is guilty of a felony, which felony shall be known as 'trafficking in illegal drugs' if the quantity involved:

"a. Is 28 grams or more, but less than 500 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 500 grams or more, but less than one kilo, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$100,000.00.

"c. Is one kilo, but less than 10 kilos, then such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.00.

"d. Is 10 kilos or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(8) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of phencyclidine, or any mixture containing phencyclidine, is guilty of a felony, which felony shall be known as 'trafficking in illegal drugs.' If the quantity involved:

"a. Is four grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$100,000.00.

"c. Is 28 grams or more, but less than 56 grams, then such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.00.

"d. Is 56 grams or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(9) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of lysergic acid diethylamide, of four grams or more of any mixture containing lysergic acid diethylamide, is guilty of a felony, which felony shall be known as 'trafficking in illegal drugs.' If the quantity involved:

"a. Is four grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of \$100,000.00.

"c. Is 28 grams or more, but less than 56 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of \$500,000.00.

"d. Is 56 grams or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(10) Any person who knowingly sells, manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of amphetamine or any mixture containing amphetamine, its salt, optical isomer, or salt of its optical isomer thereof, is guilty of a felony, which felony shall be known as 'trafficking in amphetamine.' If the quantity involved:

"a. Is 28 grams or more but less than 500 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 500 grams or more, but less than one kilo, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$100,000.00.

"c. Is one kilo but less than ten kilos, then such person shall be sentenced to a mandatory minimum term of imprisonment of fifteen calendar years and to pay a fine of \$250,000.00.

"d. Is ten kilos or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(11) Any person who knowingly sells, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of methamphetamine or any mixture containing methamphetamine, its salts, optical isomers, or salt of its optical isomers thereof, is guilty of a felony, which felony shall be known as 'trafficking in methamphetamine.' If the quantity involved:

"a. Is 28 grams or more but less than 500 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of three calendar years and to pay a fine of \$50,000.00.

"b. Is 500 grams or more, but less than one kilo, such person shall be sentenced to a mandatory minimum term of imprisonment of five calendar years and to pay a fine of \$100,000.00.

"c. Is one kilo but less than ten kilos, then such person shall be sentenced to a mandatory minimum term of imprisonment of fifteen calendar years and to pay a fine of \$250,000.00.

"d. Is ten kilos or more, such person shall be sentenced to a mandatory term of imprisonment of life without parole.

"(12) The felonies of 'trafficking in cannabis,' 'trafficking in cocaine,' 'trafficking in illegal drugs,' 'trafficking in amphetamine,'

and 'trafficking in methamphetamine' as defined in subdivisions (1) through (11), above, shall be treated as Class A felonies for purposes of Title 13A, including sentencing under section 13A-5-9. Provided, however, that the sentence of imprisonment for a defendant with one or more prior felony convictions who violates subdivisions (1) through (11) of this section shall be the sentence provided therein, or the sentence provided under section 13A-5-9, whichever is greater. Provided further, that the fine for a defendant with one or more prior felony convictions who violates subdivisions (1) through (11) of this section shall be the fine provided therein, or the fine provided under section 13A-5-9, whichever is greater.

(13) Notwithstanding any provision of law to the contrary, any person who has possession of a firearm during the commission of any act proscribed by this act shall be punished by a term of imprisonment of five calendar years which shall be in addition to, and not in lieu of, the punishment otherwise provided, and a fine of \$25,000.00; the court shall not suspend the five-year additional sentence of such person or give such person a probationary sentence."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:02 P.M.

Act No. 91-448

S. 534 — Senator Barron

AN ACT

To authorize certain state instrumentalities or agencies to purchase and pay for group health, accident or hospitalization insurance coverage for its officers and employees and to contract with the State Employees Insurance Board to provide such insurance coverage.

Be It Enacted by the Legislature of Alabama:

Section 1. Any instrumentality or agency of the State of Alabama, whose principal activity consists of distributing goods or services by contract with the United States, or any federal governmental corporation, and which are not covered by the provisions of chapter 29 of Title 36 of the Code of Alabama 1975, shall be subject to all the provisions of this act. Such instrumentality or agency is hereby empowered to purchase and pay for group health, accident or hospitalization insurance coverage for its officers and employees. Such instrumentality or agency is hereby further authorized to contract with the State Employees Insurance Board for group health, accident

or hospitalization insurance coverage, and under such terms, conditions, and costs as the State Employees Insurance Board and the instrumentality or agency shall mutually determine. The cost or premium for such group health, accident or hospitalization insurance shall not be deemed to be compensation to the covered party.

Section 2. All contracts and policies of group life, health, accident and hospitalization insurance which have been issued prior to July 1, 1991, to any instrumentality or agency defined in section 1 of this act for the benefit of its officers and employees are hereby ratified, confirmed, approved and validated. All acts done and all premiums paid by said instrumentality or agency of any such contract or policy are hereby ratified, confirmed, approved and validated.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:03 P.M.

Act No. 91-449

S. 502 — Senator Langford

AN ACT

Relating to Montgomery County; providing further for the compensation of the tax assessor and tax collector.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax assessor and tax collector of Montgomery County each shall receive as compensation \$55,000.00 per annum to become effective at the next term of office.

Section 2. Upon the expiration of the first year of the next term of office of said tax assessor and tax collector, compensation for each shall be increased in an amount equal to the percentage increase received by the employees in the respective offices. Provided, however, said amount shall not exceed \$2,400.00 per annum nor shall it exceed eight percent (8%) for any two successive years in said term of office. The increase shall be effective on October 1 of each year and shall be paid as prescribed by law.

Section 3. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:05 P.M.

Act No. 91-450

S. 546 — Senator Hale

AN ACT

Relating to Cullman County; abolishing the office of constable and providing an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cullman County the office of constable shall be abolished, pursuant to Section 36-23-1 of the Code of Alabama 1975. All assets, money, property, real or personal, equipment and supplies belonging to such office shall be transferred to the county governing body for use or disposition as they shall deem proper for the county.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:07 P.M.

Act No. 91-451

S. 548 — Senator Hale

AN ACT

Relating to Cullman County, providing for an advisory referendum for the electors of the city of Cullman regarding the election of the members of the city board of education.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cullman County, at the next county election, the electors of the city of Cullman shall vote at an advisory referendum. The question on the ballot at such referendum shall be substantially as follows:

Do you favor the election of board members of the city board of education? (Yes or No).

The results of said referendum shall be certified by the judge of probate and forwarded to the members of the Cullman County Legislative Delegation.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:08 P.M.

Act No. 91-452

S. 552 — Senator Hale

AN ACT

Relating to Cullman County; providing for a form for the probate judge to use for petitions or in referendum elections that will distinguish and identify signees and authorizing the probate judge to void any name that fails to include information requested to distinguish and identify the signee.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cullman County, for petitions or in referendum elections, the probate judge is hereby authorized to use the following form to distinguish and identify signees:

PETITION OR
REFERENDUM ELECTION
(Underline Whichever Applies)

DATE:

NAME:

ADDRESS:

CITY _____ COUNTY _____ STATE _____ ZIP CODE _____

COMPLETE ONE OF THE FOLLOWING:

DATE OF BIRTH _____

DRIVER'S LICENSE _____

SOCIAL SECURITY NUMBER _____

Section 2. The probate judge shall void any form that is used for a petition or referendum election that does not include enough information to distinguish and identify the signee.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:10 P.M.

Act No. 91-453

S. 560 — Senator Bolling

AN ACT

Relating to Marion County; to amend Section 4 of Act No. 80-128, 1980 Regular Session, so as to provide further for the disposition of the proceeds from the sale of county property.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 80-128, 1980 Regular Session, is hereby amended to read as follows:

“Section 4. All proceeds from the sale or other disposition of the property under this act shall be deposited in the general fund of the county, except those proceeds from the sale of roadway pipe and slag shall be deposited back into the fund that originally paid for the pipe or slag.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:11 P.M.

Act No. 91-454

S. 569 — Senator Barron

AN ACT

To amend Section 7 of Act No. 444, H. 986 of the 1961 Regular Session (Acts 1961, p. 482), which provided further for the DeKalb County Commission, so as to provide further for meetings of such commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 7 of Act No. 444, H. 986 of the 1961 Regular Session (Acts 1961, p. 482) is hereby amended to read as follows:

“Section 7. The DeKalb County Commission shall hold not less than two regular meetings in every calendar month. The date, time and number of said regular meetings to be held during an upcoming fiscal year shall be set by a resolution adopted by said commission and spread upon its minutes at said commission’s last regular meeting during the last month of a fiscal year. As a matter of convenience, the county commission may change the day and time of a certain scheduled meeting so long as the resolution for such change is duly adopted at least fourteen days prior to such scheduled meeting. The

county commission may hold special meetings at any time on call of the chairman of the commission or on written request of at least three members of the commission with such call or request being spread upon the minutes of the commission."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:12 P.M.

Act No. 91-455

S. 570 — Senator Barron

AN ACT

To repeal Act No. 144, H. 557 of the 1973 Regular Session (Acts 1973, p. 174), entitled "An Act Relating to DeKalb County; abolishing the position of county license inspector; placing the powers, duties and functions of said office in the sheriff of said county; providing for the disposition of fees accruing from the performance of the duties of license inspector and repealing conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. That Act No. 144, H. 557 of the 1973 Regular Session (Acts 1973, p. 174), entitled "An Act Relating to DeKalb County; abolishing the position of county license inspector; placing the powers, duties and functions of said office in the sheriff of said county; providing for the disposition of fees accruing from the performance of the duties of license inspector and repealing conflicting laws" is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:15 P.M.

Act No. 91-456

S. 571 — Senator Barron

AN ACT

To amend Section 1 of Act No. 81-582, 1981 Regular Session, (Acts 1981, p. 969), which fixes the fee for issuance of a pistol permit in DeKalb County, so as to provide further for such fee.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 81-582, H. 978, 1981 Regular Session, (Acts 1981, p. 969), is hereby amended to read as follows:

“Section 1. In DeKalb County the fee for issuance of a permit to carry a pistol concealed on or about the person or in a vehicle as provided by the Code of Alabama 1975, Title 13, Chapter 6, Section 155, shall be twenty-five dollars (\$25.00) which shall be collected by the sheriff of said county. Any and all monies collected as provided above shall be deposited in any bank within the county into a fund known as the sheriff's fund. Said fund shall be drawn upon by the sheriff of the county or his duly appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the duties of the sheriff's office as he sees fit. The establishment of the sheriff's fund as provided in this act, and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income established for the sheriff or for the operation of his office. All funds heretofore obtained from pistol permit fees and credited to any special fund or account in the county treasury under authority of any local or general law shall be returned to the sheriff of such county to be deposited and disbursed as provided below.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:16 P.M.

Act No. 91-457

S. 572 — Senator Barron

AN ACT

Relating to DeKalb County; authorizing certain county officials to use mechanical or facsimile devices for signatures on warrants or checks drawn on the county treasury or depository.

Be It Enacted by the Legislature of Alabama:

Section 1. In DeKalb County, any county officer or such other person who is designated to draw warrants or checks on the county treasury or depository, is also authorized to use mechanical or facsimile devices for signatures on such warrants or checks.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:17 P.M.

Act No. 91-458

S. 607 — Senator Owens

AN ACT

Relating to Chilton County; to provide that the probate judge shall provide for an additional method of ordering annual certificates of registration of boats by mail; to provide that the probate judge shall charge an additional fee to the boat owner for each such certificate issued by mail, and to provide for the disposition of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. The Chilton County probate judge shall mail forms to all registered boat owners within the county to allow boat owners to complete such application forms for ordering the annual certificate of registration and pay for any taxes and tags or decals by mail so that the tag or decal and receipts therefor may be forwarded to the owner by mail. There is hereby established a fee to be entitled "Mail Order Fee" which shall be set from time to time by the county governing body to pay the cost of the mailing procedure herein provided, and such fee shall be collected by the probate judge at the time of issuance and paid over to the general fund of the county as are other fees and commissions.

Section 2. The provisions of this act are cumulative and shall not be construed to repeal or supersede any laws or parts of laws not directly inconsistent herewith.

Section 3. This act shall become effective October 1, 1991, after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:18 P.M.

Act No. 91-459

S. 626 — Senator Bedsole

AN ACT

Relating to Mobile County; to provide the county treasurer an annual county salary of \$35,500.00, effective upon the expiration of the current term of office

which, when effective, shall constitute the total compensation payable by the county to said official, in lieu of any other local salary, expense allowance, per diem or other compensation previously provided by law to said official.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective upon the expiration of the current term of office, the county treasurer of Mobile County shall be paid an annual county salary of \$35,500.00, payable in equal monthly installments from the county general fund.

Section 2. The salary herein provided shall constitute the total compensation payable by Mobile County to the said county treasurer, in lieu of any salary, expense allowance, per diem or other compensation previously provided by Mobile County to said official.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:19 P.M.

Act No. 91-460

S. 629 — Senator Bedsole

AN ACT

Relating to Class 2 municipalities and the payment of assessments to a municipality for local improvements, so as to provide further for payment of said assessment; and to provide for payment in installments of principal amounts in excess of \$1,000.00 which shall bear interest.

Be It Enacted by the Legislature of Alabama:

Section 1. Any Class 2 municipality, in ordering any local improvement the cost of which or any part thereof is to be assessed against any property in accordance with the provisions of this article, may provide that the same shall be paid in cash within 30 days after the final assessment, provided the cost of such improvement does not exceed \$1,000.00, but if the total cost of said improvement is greater than such sum, any property owner may, at his election, to be expressed by notifying the municipal official charged with the duty of collecting such assessments in writing within 30 days after the assessment is made final, pay the said

assessment in 36, 60 or 120 monthly installments, which shall bear interest at a rate not exceeding 12 percent per annum, as determined by the municipal governing body; provided, however, that if, on or before the date such assessment is made final, bonds shall have been issued, under the provisions of Sections 11-81-110 through 11-81-123 of the Code of Alabama 1975, by the municipality for the purpose of providing funds to pay any portion of the costs of such improvement, the rate of interest on such installments may, at the option of the municipality and notwithstanding the foregoing provisions of this paragraph, be fixed by the municipality at a rate not exceeding the "effective net interest rate" on such bonds, as that term is herein defined; and provided, that if the assessment against any lot or parcel of land does not exceed \$25.00, said assessment must be paid in cash within 30 days after assessment is made final as above provided.

Any person may pay the whole assessment against any lot or parcel of land within 30 days from the time the assessment is made and may at any installment period pay the assessment in full by paying the full amount of the installments, together with all accrued interest thereon. Should the property owner desire to pay off the deferred installments between the dates on which they are due, he shall pay interest on the same until the succeeding installment period. The first installment shall be payable within 30 days after the assessment is made final, and all assessments or installments thereof shall be payable at the office of the clerk, tax collector or treasurer of the city as may be prescribed, and all assessments or installments thereof shall bear interest at a rate not exceeding 12 percent per annum after the expiration of 30 days from the date on which the same is made final, which interest shall be due and payable at the time and place the assessment or installment is due and payable; provided, however, that if, on or before the date such assessment is made final, bonds shall have been issued, under the provisions of division 1 of article 4 of chapter 81 of this title, by the municipality for the purpose of providing funds to pay any portion of the costs of such improvement, the rate of interest on such assessments or installments may, at the option of the municipality and notwithstanding the foregoing provisions of this paragraph, be fixed by the municipality at a rate not exceeding the "effective net interest rate" on such bonds, as that term is herein defined.

In all cases where the property owner does not elect to pay installments or, having elected to pay in installments, fails to pay the first installment in 30 days from the date of assessment, he shall be held to have waived the right to pay in installments, and the entire assessment shall at the expiration of said 30 days become due and payable.

The term "effective net interest rate" as used in this section means, with respect to any bonds issued as aforesaid for the purpose of providing funds to pay any portion of the costs of improvements, that rate computed by (1) determining, at the rate or rates of interest borne or to be borne by such bonds, the total dollar amount of the interest on such bonds from their date to their respective maturities (and deducting from such amount any premium thereon in excess of face value, or adding to such amount any discount thereon below face value, as the case may be), and (2) dividing such total dollar amount of interest by the sum of the bond year dollars of such bonds — the bond year dollars of each maturity of such bonds to be computed by multiplying the face amount of the bonds maturing in each year by the number of years the bonds of that maturity are outstanding.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:20 P.M.

Act No. 91-461

S. 664 — Senators Owens and Ellis

AN ACT

Relating to Bibb County; providing for the mode of construction, maintenance and repair of public roads, highways, bridges and ferries under the county unit system; authorizing and requiring the county governing body to employ and regulate the compensation of a county engineer; providing for the manner of selecting said engineer; prescribing his qualifications; and requiring bond; defining his authority, powers and duties and those of the county governing body in relation to the roads, bridges and ferries of Bibb County; prohibiting the performance of certain work on private property and providing civil fines for violations; and providing for this bill to become effective on October 1, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. The Bibb County Commission, or any succeeding county governing body performing the functions of the county governing body in said county, shall employ a county engineer, who shall be a thoroughly qualified and competent civil engineer, possessing all of the qualifications as specified for county engineers under the general laws of the State of Alabama; and he shall devote

his entire time and attention to the maintenance and construction of the Bibb County public roads, highways, bridges and ferries, and shall, during his employment, reside in Bibb County, Alabama.

Section 2. Said county engineer shall be appointed by the county commission from a nomination made by the state highway director. If said nomination is not acceptable to the county commission, the state highway director shall be requested to make additional nominations. Should the state highway director refuse, or fail to make nominations, the county commission may fill the position of county engineer with any person who has the qualifications herein set out.

Section 3. It shall be the duty of the said county engineer:

(1) To employ, supervise and direct all such assistants as are necessary properly to maintain and construct the public roads, highways, bridges and ferries of Bibb County, and he shall have authority to prescribe their duties, and to discharge said employees for cause, or when not needed;

(2) To perform such engineering and surveying service as may be required, and to prepare and maintain the necessary maps and records;

(3) To maintain the necessary accounting records to reflect the cost of the county highway system;

(4) To build, or construct new roads, or change old roads, but only when ordered to do so by proper order of the county commission; and

(5) It shall be his further duty, insofar as is feasible to construct and maintain all county roads on the basis of the county as a unit, without regard to any district or beat lines.

Section 4. The said county engineer is hereby designated as the person authorized to make written requisition upon the duly designated purchasing agency, for all articles, materials, supplies and equipment necessary for the maintenance and construction of roads, bridges and ferries in Bibb County.

Section 5. It shall be the duty of the county commission to fix, from time to time, in accordance with prevailing economic conditions, the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of said roads, bridges and ferries, and said wage or salary scale shall not be exceeded by said engineer in the employment of labor and assistants.

Section 6. The county commission shall fix the amount of the salary of the said county engineer, payable in equal monthly installments from the road and highway funds of Bibb County.

Section 7. Before entering upon his duties, the said county engineer shall make and enter into a surety bond in the amount of five thousand dollars (\$5,000.00) payable to Bibb County, conditioned for the faithful discharge and performance of his duties as such engineer, and for the faithful accounting of all monies or property of said county, which may come into his possession or custody. Said bond shall be executed by a surety company authorized and qualified to do business in Alabama, and be approved by the county commission. The premiums thereon shall be paid by the county.

Section 8. The county engineer shall report on a day-to-day basis to the chairman of the county commission and shall report regularly to the county commission as a whole.

Section 9. The county commission shall furnish the county engineer with an office at the courthouse, or elsewhere, at the county seat, and all necessary office supplies, and shall furnish him with necessary transportation in connection with his duties under this act.

Section 10. The county engineer shall be the custodian of all road tools, machinery, supplies and equipment of Bibb County, and he shall be accountable for the same, at all times. The county commission shall furnish the necessary storage facilities in which to keep said tools, machinery, supplies and equipment, and the county engineer shall keep on file in his office, at all times, an up-to-date inventory, containing a list of all said tools, machinery, equipment and supplies belonging to Bibb County.

Section 11. The county engineer shall make written requisition to the chairman of the county commission for all materials, machinery, equipment and necessary supplies needed for the construction, maintenance or repair of the public roads, bridges and ferries of Bibb County. Said requisitions shall be filed and presented by the chairman of the county commission at its next meeting for the approval of the board. Provided, however, that the chairman shall have full power and authority to make said purchases without first obtaining the approval of the whole board if the delay caused by the hereinabove procedure might, in his judgment, cause an unnecessary and harmful interruption in the operation of the county road system.

Section 12. It shall be the further duty of the county engineer to inspect all materials, machinery, equipment and supplies purchased by Bibb County for use on public roads, bridges and ferries, when the same is delivered, and the same shall not be accepted and paid for without its first having been approved by him.

Section 13. In the event an emergency should arise in which it would be impossible for the county commission to employ an engineer, as hereinabove provided for, then, in that event, the county commission shall employ a competent road supervisor who need not be an engineer, but when so employed, he shall have all the duties and authority of said engineer, and be subject to the provisions of this act; but an emergency shall not exist so long as the state highway director can nominate an engineer who will accept employment by said board under the terms of this act, it being the intention of this act to provide that, when county roads are to be maintained or constructed in said county, the supervision thereof shall be either under a county engineer, as hereinabove provided for, or, by a road supervisor who is not a member of the county commission.

Section 14. The county commission is prohibited from authorizing or performing any work on private property with the exception of work performed on church, school or cemetery property. Any violation of the provisions of this act shall be punishable by a civil fine of not more than \$500.00.

Section 15. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 16. All laws or parts of laws which conflict with this act are hereby repealed.

Section 17. The provisions of this act shall become effective October 1, 1991.

Approved July 29, 1991

Time: 4:21 P.M.

Act No. 91-462

S. 666 — Senator Ellis

AN ACT

Relating to the Eighteenth Judicial Circuit of Alabama; to amend Act No. 79-523, H. 426, 1979 Regular Session, so as to provide an increase in expense allowance for each official reporter within the said judicial circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 79-523, H. 426, 1979 Regular Session, is hereby amended to read as follows:

“Section 1: In addition to all other allowances and compensation now provided by law, there shall be paid to each official court reporter of the eighteenth judicial circuit of Alabama in equal monthly installments, an allowance of \$5,400 per annum, for the

purpose of defraying the expenses of such official court reporters in the performance of their official duties. The allowance provided for herein for the official court reporters shall be paid from the general funds of Shelby County."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:22 P.M.

Act No. 91-463

S. 667 — Senator Ellis

AN ACT

Relating to Shelby County, amending Section 1 of Act No. 191, H. 525, 1971 Regular Session, which provides a special expense allowance of \$2,400.00 per annum for the presiding circuit judge of the Eighteenth Judicial Circuit above that of the other Circuit Judges, said allowance also being outside the current \$15,000.00 expense allowance for each Circuit Judge, so as to provide that such \$2,400.00 may be received by the presiding judge's confidential employee at his designation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 191, H. 525, 1971 Regular Session, is hereby amended to read as follows:

"Section 1. In lieu of the presiding circuit judge of the Eighteenth Judicial Circuit of this state receiving the \$2,400.00 special expense allowance heretofore authorized, for the purpose of defraying expenses in the performance of his official duties, said expense allowance in the amount of \$2,400.00 per annum, shall be paid to the presiding circuit judge's confidential employee at his designation and shall be paid by Shelby County. The allowance herein provided for shall be paid in equal monthly installments from the county general fund. Further, the presiding circuit judge shall designate such person to the Shelby County Commission within ten (10) days of the date this act becomes law, and within ten (10) days of October 1 each year thereafter."

Section 2. All other laws or parts of laws providing an expense allowance or county supplement for the said presiding circuit judge shall remain unchanged, and such presiding circuit judge's expense allowance and county supplement currently aggregating \$15,000.00 per annum shall remain unchanged and be unaffected by this amendatory act.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:23 P.M.

Act No. 91-464

S. 668 — Senators Ellis and Owens

AN ACT

Relating to Bibb County; providing for the use of electronic voting systems in elections; providing the requirements for these systems; providing those procedures to be used in connection with elections in which these systems are used, including additional procedures for dividing precincts and designating voting places therein; providing election officers for such polling places and prescribing duties and compensation of such election officials.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act:

(1) "Automatic Tabulating Equipment" shall mean apparatus which automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(2) "Paper Ballot" shall mean a printed paper ballot which conforms in layout and format to the electronic voting system in use.

(3) "Ballot Card" shall mean a tabulating card on which votes may be recorded.

(4) "Ballot Label" shall mean the cards, papers, booklet, pages or other material which contain the names of offices and candidates and statements of measures to be voted on and which are used in conjunction with ballot cards.

(5) "Ballot" shall mean ballot cards or paper ballots.

(6) "Counting Center" shall mean one or more locations selected and designated by the county commission or the municipal governing body, as the case may be, for the automatic counting of ballots in the election.

(7) "Electronic Voting System" shall mean a system in which votes cast by paper ballots or ballot cards, may be tabulated by automatic tabulating equipment.

(8) "Voting Device" shall mean an apparatus in which paper ballots or ballot cards are used in connection with either a punch device for the piercing of ballots by the voter, or a device for marking ballots with ink or other substance, or any other method for recording votes on ballots in such way that the ballot may be tabulated by means of automatic tabulating equipment.

Section 2. (1) In Bibb County, the county commission, or the governing body of any city or town in the county may adopt; experiment with; acquire by purchase, lease, or otherwise, or abandon any electronic voting system authorized by this act for use in all elections in the county or city or only for use thereof in certain elections. Further, may use such system in combination with paper ballots; and may use such system in all or a part of the voting districts within its boundaries. The local authorities, on the adoption and acquisition of an electronic voting system, shall provide for payment therefor in such manner as they deem for the best interest of the locality. Provided, however, the county or city shall not be required to furnish electronic voting systems in voting precincts or districts that contain less than 600 voters.

(2) Notwithstanding any other provisions of this act or of any other law, the ballots to be counted by means of electronic or electro-mechanical devices shall be of such size, layout and texture, and shall be printed in any type of ink or combination of inks that will be suitable for use in the automatic counting devices.

Section 3. No electronic voting system shall be used in any election unless it satisfies the requirements of Section 17-9-7, Code of Alabama 1975, and

(1) Permits each voter, at other than primary elections, to vote for the nominees of one or more political parties and for independent candidates, and

(2) Permits each voter to vote for candidates in the primary of the political party of his choice, and

(3) Prevents a voter from voting for the same person more than once for the same office, and

(4) Is suitably designed for its purpose and in such a manner that it may be used safely, efficiently and accurately in the conduct of elections and the counting of ballots, and

(5) Accurately and correctly records and counts every vote cast when properly operated.

Section 4. A. If automatic tabulating equipment which requires the use of ballot cards is used:

(1) Ballot labels used in conjunction with ballot cards shall, as far as practicable, be in the same order or arrangement as provided for ballots for elections conducted under the general law, except that the names of all candidates for each office shall be arranged in alphabetical order according to their surnames or last names, and except that such information may be printed in vertical columns or on a number of separate pages which are placed on the voting device.

Following the listing of particular candidates, the pages placed on the voting device shall be of sufficient number to include the names of candidates for any non-partisan offices and any measures on which a voter may be qualified to vote.

In a primary election the pages placed on the voting device may be arranged with the entire ballot label consisting of several groups of pages, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups or pages used to list candidates for non-partisan offices or measures. Groups of pages shall be identified by color or other suitable means, and voters shall be instructed to vote only for candidates of the party of their choice and, thereafter, to vote for non-partisan candidates or measures.

(2) Ballot labels shall be printed in plain clear type in black ink, of such size and arrangement as to fit the construction of the voting device. Said labels shall be printed on clear white material or on material of different colors to identify different ballots or parts of a ballot. In primary elections multi-colored ballot labels may be used to identify each political party.

(3) On all ballot labels the titles of offices and the names of candidates shall in all election primaries be arranged in vertical columns or in a series of separate pages. The office titles and the name, or an abbreviation of the name of the political party, shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office, the party and the number to be elected. All candidates for one office shall, insofar as feasible, be grouped on one page. In case there are more candidates for an office than can be printed in one column or on one ballot page,

the ballot label shall be clearly marked to show that the list of candidates is continued on the following column or page. In partisan elections the party designation of each candidate shall be printed to the right or below the candidate's name. Arrows may be used to indicate the place to vote for each candidate and on each measure.

(4) In partisan elections the ballot labels shall include a voting square or position whereby the voter may by one punch or one X record a straight party ticket vote for all the candidates of one party or may vote a split ticket for the candidates of his choice. In such partisan elections the party designation and party emblem of each party shall be printed on the ballot labels immediately above the square or position which permits the straight ticket voting. The name or abbreviation of the name of the party shall appear after the name of each individual candidate seeking nomination by such party or seeking election after nomination as such party's candidate.

B. If automatic tabulating equipment which requires the use of paper ballots is used:

(1) Such ballots shall conform to the requirements of Section 17-8-1 et seq., Code of Alabama 1975.

C. If either of the above said automatic tabulating equipment is used:

(1) Paper ballots or ballot cards shall be of the size, design and stock suitable for processing by automatic data processing machines. Each paper ballot or ballot card shall have an attached, serially numbered, stub or perforated stub, which shall be removed by an election officer before it is deposited in the ballot box, or a place where a number can be recorded and obscured. A record of the number of each ballot issued shall be kept by the election official and such record shall record the name of the recipient of such ballot. The name of the county or other local governmental unit, the district number, the designation and date of the election, and a facsimile of the signature of the judge or appropriate municipal officer who has caused the ballot to be printed shall be printed on the paper ballot or ballot card stub. Each paper ballot or ballot card shall contain the same serial number as the stub.

(2) Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided and posted in each polling place on election day as required by law. Sample ballots may be printed on a single page or on a number of pages stapled together.

(3) In elections in which voters are authorized to vote for persons whose names do not appear on the ballot, a place shall be placed on the ballot or a separate write-in ballot shall be provided to permit voters to write in the title of the office and the name of the person or persons for whom he wishes to vote.

Section 5. (1) Prior to any election at which electronic voting devices are used, the probate judge or appropriate municipal officer shall have prepared the voting devices, voting booth, ballot boxes, ballot labels, ballot cards or paper ballots, "write-in" ballots and such other records and supplies as required.

(2) Unless the voting device enables the voter to mark his choices in secret, the sheriff or appropriate municipal officer shall provide voting booths for each voting box or voting center, which shall be of a size and design so as to enable the voter to mark his ballot in secret. The probate judge or appropriate municipal officer shall determine the number of voting devices and voting booths to be provided.

Section 6. (1) The election official shall arrive at the polling place 30 minutes before the opening of the polls, open the voting devices, and examine them to see that they are in proper working order. They shall open and check the ballots, supplies, records and forms and they shall also post the sample ballots and instructions to voters.

(2) In the event paper ballots are not used, each voter shall be instructed how to operate the voting device before he enters the voting booth. If paper ballots are used and the voter needs instructions or assistance, he may be provided such assistance or instructions in the manner provided by Alabama law as it applies to use of paper ballots.

(3) Any voter who spoils his paper ballot or ballot card may return it and secure another. The word "spoiled" shall be written across the face of the ballot and it shall be placed in the envelope for spoiled ballots.

(4) After the voter has marked his paper ballot or ballot card, he shall place the paper ballot or ballot card in the box provided or place the ballot inside the envelope provided and return it to an election officer, who shall remove the stub and deposit the envelope with the ballot inside the ballot box. No ballot card from which the stub has been detached shall be accepted by the election officer in charge of the ballot box, but shall be marked "spoiled" and placed with the spoiled ballot cards.

(5) As soon as the polls have been closed and the last qualified voter has voted, all unused ballots shall be placed in a container and sealed for return to the sheriff or appropriate municipal officer. If the ballots are to be tabulated in the polling place, the counting equipment used shall have an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate's position, each question and the public counter are all set to zero, and with an element which generates a printed record at the finish of its operation of

the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate, and the total number of votes cast for, or against any question appearing on the ballot. If the ballots are to be counted centrally, the ballot box shall be opened, and any ballots containing write-in votes may be separated, counted, and tabulated on a standard form provided for this purpose, or such may be separated, counted and tabulated at the central place of counting and tabulation as the equipment for counting tabulation dictates. If the voter has cast more votes for an office than he is entitled as a result of the write-in vote, such write-in vote shall be counted as being the obvious intent of the voter. Any such ballots shall be fastened to the reporting form for write-in vote tabulation and placed in the ballot container with all other voted ballots for delivery to the counting center. The voting devices shall be placed in their containers and locked or sealed for returning to the sheriff or appropriate municipal officer, and the sealed container shall be returned to the sheriff by chief inspector.

(6) The election inspector shall prepare a report of the number of voters who have voted, as indicated by the poll list, and shall place the original copy of this report in the ballot container so that no additional ballots may be deposited or removed, and shall deliver such container to the counting center. The duplicate copy of this report shall be returned to the sheriff or appropriate municipal officer with other records. The returning officer and the inspector, who shall be members of different political parties when this is feasible, shall forthwith deliver the ballot container to the counting center or other designated place. The judge of probate or appropriate municipal officer may provide that the ballots shall be picked up at the polling places by two authorized returning officers, who shall be of different political parties, if feasible.

Section 7. (1) Prior to the start of the counting of the ballots, the judge of probate or the appropriate municipal officer shall have the automatic tabulating equipment tested in the presence of authorized watchers for interested persons or designate representatives of political parties, to ensure proper performance and to ascertain that it will accurately count the votes cast for all offices and all measures.

(2) All proceedings at the counting center shall be under the direction of the probate judge or appropriate municipal officer, or persons designated by him, and shall be conducted under observation of authorized watchers for interested persons and the public, but no person except those authorized for the purpose shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties.

Each political party having election watchers at the polls shall be entitled to have watchers at the counting center in sufficient number, to be determined by the governing body of the county or city, so as to permit accurate observance of the receipt, handling, duplication, and processing of all ballots.

If any ballot is damaged or is defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged ballot. All duplicate ballots shall be clearly labeled "duplicate" and shall bear a serial number which shall be recorded on the damaged or defective ballot. The probate judge or appropriate municipal officer may, prior to the conduct of the official count, conduct an unofficial count in order to provide early unofficial returns to the public.

(3) The return by the automatic tabulating equipment, to which have been added write-in, challenged and absentee votes, shall, when certified by the board of election supervisors as provided for in Section 17-14-1, Code of Alabama 1975, constitute the official return of each election. The persons engaged in processing and counting ballots may from time to time release unofficial returns. Upon completion of the count the returns shall be open to the public, but such returns shall be deemed unofficial until canvassed and the results declared pursuant to Sections 17-14-1 through 17-14-25, Code of Alabama 1975.

(4) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the judge of probate or appropriate municipal officer may direct that the ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

Section 8. Absentee votes and challenged votes shall be cast on paper ballots or on ballot cards and handled in all ways as prescribed by law relative to challenged votes, the absentee ballot law or any other applicable law.

Section 9. All challenged votes shall be counted and handled in the manner prescribed by law.

Section 10. Upon completion of the count, all ballot cards, absentee ballots, challenged ballots write-in ballots and paper ballots, shall be securely packaged, suitably labeled and sealed, and delivered to the returning officer of the election. The election officials shall likewise package and seal a true copy of the ballot label used in each voting district or at each voting center. Thereafter these packages are to be retained and disposed of in accordance with the provisions of Section 17-13-5, Code of Alabama 1975. The election officials shall likewise package and retain all tabulating cards and other materials used in programming the automatic tabulating

equipment. The person programming such equipment may have access to these tabulating cards and other materials; he shall not, however, alter or make changes to these materials, but may make copies of the originals and make changes to the copies. The sheriff shall retain and dispose of these materials in the same manner and at the same time he is directed by said Section 17-13-5, *supra*, to retain and dispose of paper ballots.

Section 11. Any election held pursuant to this act may be contested in the same manner prescribed by law for contesting other elections, and a recount of votes may be ordered under the same circumstances and conditions as recounts relative to other elections are ordered. Should a recount of votes be ordered as provided by law, the ballots shall be recounted in the manner directed by the judicial authority.

Section 12. (a) If the governing body of the county, with the approval of the probate judge, or the governing body of a municipality authorizes and provides for the use of the electronic voting system pursuant to this act, then such governing body shall also designate voting beats and voting boxes within such beat in the county. The order so designating voting boxes shall state (1) the location of the voting beat and box and (2) the boundaries of the territory in which electors shall reside to be entitled to vote at said voting beat. A copy of this order shall be posted at the courthouse door of the county or at the post office door of any municipality which provides for the use of such electronic voting systems. The limitations prescribed by law as to the number of electors who may reside in a voting district shall not apply to a territory designated hereunder. Boxes may be established for territory or alphabetically. All of the territory designated for a voting box shall be located in the same beat. The county or municipal governing body may by law abolish a voting beat and discontinue the voting box or boxes therein or may extend or restrict the boundary of such voting territory and retain the voting boxes therein or may subdivide such voting territory and designate additional voting boxes therein.

(b) Except as herein expressly provided, in designating voting beats and the territory for which they were established, the county or municipal governing body shall be subject to all other applicable laws regarding the change or establishment of the district of a precinct, including but not limited to the provisions of Section 17-5-1, *et seq.*, Code of Alabama 1975.

Section 13. (a) The voting list of any territory which is furnished the election officers serving at the voting box or boxes designated for such territory shall contain the names of all qualified electors of the territory on a single roll; however, when the roll contains more than twenty-four hundred names the list of qualified

electors shall be divided into alphabetical sections of not more than twenty-four hundred names per section. Except as herein provided, the laws applicable to the preparation, distribution, publication and checking of qualified lists shall apply to the poll list of a territory for which a voting box has been established by the county governing body pursuant to authority hereby conferred.

(b) No elector shall vote at any voting beat and box other than the voting beat and box of the territory of which he is a qualified elector.

Section 14. The county governing body shall determine the number of voting beats and boxes and the location of each box deemed necessary to serve adequately the voters at an election, taking into consideration the nature or character of the election; provided, that during each election there shall be maintained at least one box for each six hundred registered electors, or fraction thereof, residing in the territory designated as a beat. At least thirty days prior to the time when the election officials for an election are required to be appointed, the county governing body shall in writing inform the officers whose duty it is to appoint said election officials of the boxes which will be maintained in the respective beats during the forthcoming election. The officers whose duty it is to appoint election officials shall appoint four of said officials for each of the respective boxes required to conduct elections as shown in the statement of the county governing body.

Section 15. (a) At each box of each beat, the election officials shall consist of an inspector, a chief clerk and two assistant clerks.

(b) If an election official should be absent from the box at the opening of such box, a substitute election official may be appointed by the chief inspector in charge of the voting center.

(c) The election officials provided for herein shall be appointed by the same officers that appoint other election officials. They shall perform all duties imposed on election officials by the general law.

(d) The assistant clerk in charge of the voting device shall require that each voter sign a poll list when the punch card or other ballot is given to him, which shall contain a serial number, the same as on the paper ballot or ballot card given him. A separate poll list of persons casting challenged votes shall be kept by the officials. The poll list shall be signed or the name of the voter recorded as provided in Section 17-7-15, Code of Alabama 1975.

(e) The inspector shall certify on a statement form furnished with the other election supplies the total number of votes cast on all devices at the voting box and the total number of electors'

names recorded on the poll lists at such voting box. Election officials provided for by this act shall be compensated for their services in the same manner and at the same rate provided by law for election officials where voting machines are used.

(f) It shall be the duty of all election officials to see that order is maintained in the polling place. The inspector shall see that the reports required by Section 6(6) of this act are filled out for each voting device as required by law and delivered to the proper officials, that the records of the election relating to each device are enclosed respectively in each ballot box or other receptacle provided therefor, and that the list of qualified voters, challenged ballots, and one copy of each challenged vote and any other records relating to the election in general are enclosed in an appropriate box or other receptacle.

Section 16. (a) If the governing body of the county or municipality authorizes and provides for the use of the electronic voting system hereby authorized, then such governing body may, in its discretion, also provide for holding a school of instruction for those who will actually conduct the election at the polling places. If the governing body of the county or the municipality decides to do so, then not less than five days before an election the authority in charge shall cause to be held a school of instruction for those who will actually conduct the election at the polling places. The sheriff shall notify the election officials of the time and place of the holding of such school and shall also publish notice thereof at least 48 hours before the same is to be held.

(b) No election official shall serve in any election district or at any voting box in which a voting device is used, unless he shall have received such instruction and is fully qualified to perform the duties in connection with the voting device, has received a certificate from the authorized instructor to that effect, and is a qualified voter. This shall not, however, prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials, and in the event that the governing body does not order the holding of such school of instruction, the appointment of election officials without such school shall be valid.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. All laws or parts of laws which conflict with this act are hereby repealed.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:24 P.M.

Act No. 91-465

S. 672 — Senator Foshee

AN ACT

Relating to the City of Opp in Covington County; authorizing an additional ad valorem tax to be used for the general educational purposes and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. In Covington County, pursuant to subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901, and a resolution heretofore adopted by the City of Opp governing body after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem tax on the taxable properties in the city. The city governing body may impose an additional ad valorem tax in the amount of seven and one half (7 1/2) mills on each dollar of taxable property in the city. The revenues from said tax shall be paid to the City Board of Education to be used for general educational purposes.

Section 2. The increase in the rate of said tax as provided herein subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 4:25 P.M.

Act No. 91-466

H. 311 — Rep. Holladay

AN ACT

To propose an amendment to the Constitution of Alabama of 1901; to authorize the operation of bingo games for prizes or money by certain nonprofit organizations for charitable or educational purposes in St. Clair County and to levy a fee on each bingo card sold and to provide for the distribution of the proceeds of said fee.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of

the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

PROPOSED AMENDMENT

The operation of bingo games for prizes or money by certain nonprofit organizations for charitable, educational, or other lawful purposes shall be legal in St. Clair County, subject to the provisions of any resolution or ordinance by the county governing body or the governing bodies of the respective cities and towns within their respective jurisdictions as provided by law regulating such operation. The said governing bodies shall have the authority to promulgate rules and regulations for the issuance of permits or licenses and for operation of bingo games within their respective jurisdictions; provided, however, that said governing bodies must insure compliance pursuant to said law and the following provisions:

(1) No person under the age of 19 shall be permitted to play any game or games of bingo unless accompanied by a parent or guardian; nor shall any person under the age of 19 be permitted to conduct or assist in the conduct of any game of bingo;

(2) No bingo permit or license shall be issued to any nonprofit organization unless such organization shall have been in existence for at least 24 months immediately prior to the issuance of the permit or license;

(3) Bingo games shall be operated only on the premises owned or leased by the nonprofit organization operating the bingo game. If the premises is leased, the rate or rental shall not be based on a percentage of receipts or profits resulting from the operation of bingo games;

(4) No nonprofit organization shall enter into any contract with any individual, firm, association or corporation to have said individual or entity operate bingo games or concessions on behalf of the nonprofit organization, nor shall said nonprofit organization pay consulting fees to any individual or entity for any services performed in relation to the operation or conduct of a bingo game;

(5) A nonprofit organization shall not lend its name or allow its identity to be used by any other person or entity in the operating or advertising of a bingo game in which said nonprofit organization is not directly and solely operating said bingo game;

(6) Prizes given by any qualified nonprofit organization for the playing of bingo games shall not exceed the cash amount or gifts of equivalent value, set by the legislature, during any bingo session. The legislature shall set a maximum amount for any calendar week;

(7) By whatever name or composition thereof, no person or organization shall take any expenses for the operation of a bingo game except as permitted by law.

(8) A fee of \$.10 (ten cents) shall be levied upon each bingo card sold pursuant to the provisions of this amendment or pursuant to any local law. Said fee shall be collected by the nonprofit organization who sold the bingo card and paid to the tax collector or revenue commissioner of St. Clair County on a weekly basis. The tax collector or revenue commissioner shall place the proceeds collected into the treasury of St. Clair County in a special fund. All funds collected shall be expended by the county commission in the following manner:

40% (forty percent) of said funds shall be allocated to volunteer fire departments located in St. Clair County;

30% (thirty percent) of said funds shall be allocated to senior citizens' programs and facilities;

20% (twenty percent) of said funds shall be allocated to youth recreation programs and facilities;

10% (ten percent) of said funds shall be allocated to the St. Clair County sheriff's department.

The tax collector or revenue commissioner of St. Clair County shall have authority to promulgate necessary rules and regulations to implement the procedure for the collection of the fee prescribed herein. The legislature, from time to time, may by local law alter the fee levied herein and alter the method of allocating the proceeds of said fee.

Section 2. The provisions of this amendment shall have no force and effect unless it shall first be approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

Section 4. An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in St. Clair County. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

CONSTITUTIONAL AMENDMENT

Passed the House May 7, 1991

Passed the Senate July 29, 1991

Act No. 91-467

S. 498 — Senator J. Smith

AN ACT

Relating to Limestone County; so as to further provide for an additional expense allowance and expiration date therefor and the sheriff's compensation, in the next term of office for sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. The sheriff in Limestone County shall receive an expense allowance of \$900.00 per month. Said expense allowance shall be in addition to all other compensation, expense allowances or benefits granted to the sheriff.

Section 2. Beginning with the next term of office, the expense allowance paid to the sheriff as provided in Section 1 shall be null and void. In lieu thereof, the sheriff shall receive an additional compensation of \$900.00 per month. Said compensation shall be in addition to all compensations, expense allowances or benefits received.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective October 1, 1991.

Approved July 29, 1991

Time: 5:00 P.M.

Act No. 91-468

H. 933 — Rep. Thomas

AN ACT

Relating to Wilcox County, providing further for the compensation of the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. In Wilcox County, effective immediately, the sheriff is hereby entitled to receive an expense allowance in the amount of seven thousand five hundred dollars (\$7,500.00) per annum. Said expense allowance shall be in addition to any and all other compensation heretofore provided by law and shall be payable from the county general fund.

Section 2. Effective with the beginning of the next term of office, the sheriff is hereby entitled to receive an additional salary in the amount of seven thousand five hundred dollars (\$7,500.00) per annum and the provisions of Section 1 of this act, at that time, shall become null and void.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:01 P.M.

Act No. 91-469

S. 647 — Senator Sanders

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the town of Mosses in Lowndes County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the town of Mosses in Lowndes County are hereby altered, rearranged and extended so as to include within the corporate limits of said town, in addition to the lands now included, all the following territory, to-wit: North 1/2, South West 1/4, Section 17, Township 14 North, Range 14 East; North 1/2, South 1/2, Section 18, Township 14 North, Range 14 East; South 1/2, North 1/2, Section 13, Township 14 North, Range 13 East; South 1/2, Section 13, Township 14 North, Range 13 East; North 1/2, North West 1/4, Section 24, Township 14 North, Range 13 East; South 1/2, South East 1/4, Section 14, Township 14 North, Range 13 East; North 1/2, North East 1/4, Section 23, Township 14 North, Range 13 East; all located in Lowndes County, Alabama.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:04 P.M.

Act No. 91-470

H. 279 — Rep. Harper

AN ACT

To provide for immunity for certain persons responding to certain oil spills.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the Alabama Act Regarding Liability for Persons Responding to Oil Spills.

Section 2. For the purposes of this act the term:

(1) "Damages" means damages of any kind for which liability may exist under the laws of this state resulting from, arising out of, or related to the discharge or threatened discharge of oil;

(2) "Discharge" means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(3) "Federal On-Scene Coordinator" means the federal official predesignated by the U.S. Environmental Protection Agency or the U.S. Coast Guard to coordinate and direct federal responses under subpart D of the National Contingency Plan, or the official designated by the lead agency to coordinate and direct removal under subpart E, of the National Contingency Plan;

(4) "National Contingency Plan" means the National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act [33 U.S.C.1321(d)], as amended by the Oil Pollution Act of 1990, Pub. L. No. 101-380, 104 Stat. 484 (1990);

(5) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(6) "Person" means an individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, or any interstate body;

(7) "Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident;

(8) "Responsible party" means the following:

(a) Vessels. In the case of a vessel, any person owning, operating, or demise chartering the vessel.

(b) Onshore facilities. In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a federal agency, state, municipality, commission, or political subdivision of a state, or any interstate body, that as owner, transfers possession and right to use the property to another person by lease, assignment, or permit.

(c) Offshore facilities. In the case of an offshore facility (other

than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable state law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301-1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a federal agency, state, municipality, commission or political subdivision of a state, or any interstate body, that as owner, transfers possession and right to use the property to another person by lease, assignment, or permit.

(d) Deepwater ports. In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524), the licensee.

(e) Pipelines. In the case of a pipeline, any person owning or operating the pipeline.

(f) Abandonment. In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the persons who would have been responsible parties immediately prior to the abandonment of the vessel or facility.

Section 3. (a) Notwithstanding any other provision of law, a person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the Federal On-Scene Coordinator or by any state official with responsibility for oil spill response.

(b) Subsection (a) of this section does not apply:

- (1) to a responsible party;
- (2) with respect to personal injury or wrongful death; or
- (3) if the person is grossly negligent or engages in wanton or willful misconduct.

(c) A responsible party is liable for any removal costs and damages that another person is relieved of under subsection (a) of this section.

(d) Nothing in this act affects the liability of a responsible party for oil spill response under state law.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:05 P.M.

Act No. 91-471

H. 509 — Reps. Hooper, Goodwin, Williams, White, Turnham, McClain, Turner, Biddle, Knight, Sanderford, Hill, Clark (J), Millican, Haynes, Johnson, Flowers, Gaston, Kvalheim, Harper, Beasley, Burke, Carothers, Ford, Poole, Black (L), Thomas, Layson, Cosby, Mathis, Cullins, McDowell, McKee, Blakeney, Fuller, Willis, Bowling, Black (M), Crow, Smith (R), Spratt, Rogers (J), Warren, Hogan, Cagle, Morrow, Drake, Gullatt, Hawkins

AN ACT

To amend Section 12-17-81, Code of Alabama 1975, relating to salaries of the circuit clerks of this state; and to provide an effective date of October 1, 1992 for the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-17-81, Code of Alabama 1975, is hereby amended to read as follows:

“§12-17-81.

“(a) The annual salary of circuit clerks and registers payable from the state treasury shall be fixed at \$50,000. The provisions of this section shall in no way apply to or otherwise diminish any local supplement currently provided to any circuit clerk or register pursuant to any general or local act; provided, further, that the salary of registers, payable from the state treasury, shall be increased by the same amount which accrues to circuit clerks by virtue of this section except that in no event shall the provisions of this section cause a register's state salary to exceed that of any circuit clerk's state salary. In no event shall the annual state salary of any register be diminished by the provisions of this section.

“(b) The provisions of this section shall not apply to Act No. 77-323 unless approved by resolution adopted by the governing body of the county or counties affected.”

Section 2. This act shall become effective October 1, 1992.

Approved July 29, 1991

Time: 5:06 P.M.

Act No. 91-472

H. 658 — Reps. Freeman, Butler

AN ACT

To authorize certain employers to purchase workers' compensation insurance with a deductible provision.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Each insurer issuing a policy under this act shall offer, as a part of the policy or as an optional endorsement to the policy, deductibles optional to the policyholder for benefits payable under this act. Deductible amounts offered shall be fully disclosed to the prospective policyholder in writing in the amount of \$100.00, \$200.00, \$300.00, \$400.00, \$500.00, or increments of \$500.00 up to a maximum of \$2,500.00 per compensable claim. The policyholder exercising the deductible option shall choose only one deductible amount.

(b) If the policyholder exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for benefits paid for each compensable claim of work injury suffered by an employee. The insurer shall pay all or part of the deductible amount, whichever is applicable to a compensable claim, to the person or medical provider entitled to the benefits conferred by this act and then seek reimbursement from the insured employer for the applicable deductible amount. The payment or nonpayment of deductible amounts by the insured employer to the insurer shall be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums.

Section 2. Optional deductibles shall be offered in each policy insuring liability for workers' compensation that is issued, delivered, issued for delivery, or renewed under this act on or after the effective date of this act, unless an insured employer and insurer agree to renegotiate a workers' compensation policy in effect on the effective date of this act, so as to include a provision allowing for a deductible.

Section 3. Premium reduction for deductibles shall be determined before the application of any experience modification, premium surcharge, or premium discounts. To the extent that an employer's experience rating or safety record is based on benefits paid, money paid by the insured employer under a deductible as provided in this act shall not be included as benefits paid so as to harm the experience rating of such employer.

Section 4. This act shall not apply to employers who are approved to self-insure against liability for workers' compensation

or group self-insurance funds for workers' compensation established pursuant to chapter 5 of Title 25, Code of Alabama 1975.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:07 P.M.

Act No. 91-473

H. 280 — Rep. Harper

AN ACT

To require an additional fee for licensure and renewal of licenses as a general contractor and providing that the revenue derived from such additional fees shall be distributed to institutions of higher education offering certain courses of study.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the fees required for application and renewal for certification and registration of general contractors in Section 34-8-2, Code of Alabama 1975, all licensees shall pay a fee equal to \$100.00 at the time of application or renewal of licenses. The revenue derived from such additional fees shall be distributed by the State Licensing Board for General Contractors at the end of each licensing period to all accredited public institutions of higher education offering American Council for Construction Education accredited courses in building science, and to all accredited public institutions of higher education offering courses in building science who are in the candidate status of the American Council for Construction Education and to institutions of higher education offering courses leading to a Bachelor of Civil Engineering degree which offers courses in highway engineering and construction at the undergraduate and graduate levels and whose civil engineering program is accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET). Funds identified by the general contractors for building science shall be distributed pro rata among institutions based upon the number of full-time equivalent students enrolled in the Department of

Building Science at the institution. Funds identified by the general contractors for civil engineering shall be distributed pro rata among institutions based upon the number of full-time equivalent civil and pre-civil engineering students enrolled at the institution.

Section 2. Revenue derived from the additional fees for all licenses will be distributed for (1) building science (general construction) purposes and (2) civil engineering (highway engineering and/or construction) purposes. Contractors shall be given an opportunity to select which program they want to support.

Revenues derived from the additional fees for all licenses that are not specifically designated by contractors for one of the purposes above, shall be distributed between the programs defined in Section 1 in a pro rata manner based on the number of full-time equivalent students enrolled in each program at each institution.

Section 3. Each institution receiving funds pursuant to this act for building science purposes shall utilize such funds for research projects relating to the construction industry, for faculty development, for program enhancement, and for continuing education programs related to construction. Such funds shall be administered by a committee appointed by the Dean responsible for the building science program, and shall include the head of the Department of Building Science, or comparable position, faculty representatives, and representatives of the Building Science Industry Advisory Committee of the institution.

Section 4. Each institution receiving funds pursuant to this act for civil engineering purposes shall utilize such funds to enhance activities in the highway engineering and/or construction area. This includes but is not limited to scholarships, fellowships, research, faculty development and continuing education. Funds pursuant to this act shall be administered by a committee appointed by the Dean of Engineering. The committee should undertake, as part of its mission, to work with the public and private sectors of the highway industry to encourage student participation in co-op and summer industry employment programs as well as to lead students toward career employment in the highway industry upon graduation.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:08 P.M.

Act No. 91-474

H. 183 — Rep. Turnham

AN ACT

To establish an Act relating to preschool special education services for children with disabilities, ages 3 through 5 years, inclusive; to provide a free appropriate public education for preschool children with disabilities, ages 3 through 5 years, inclusive, in accordance with the Individuals with Disabilities Education Act, previously known as the "Education of the Handicapped Act," Public Law 91-230 and all amendments thereto.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall be known and may be cited as the "Alabama Preschool Special Education Act."

Section 2. There is hereby established a Preschool Special Education Program for children with disabilities, ages 3 through 5 years, inclusive. All county and city local education agencies are required to provide free appropriate public education for all eligible children with disabilities, ages 3 through 5 years, inclusive, in accordance with the Individuals with Disabilities Education Act, previously known as the "Education of the Handicapped Act," Public Law 91-230, and all amendments thereto.

Section 3. For purposes of this Act, the following words, terms and phrases shall have the following interpretations:

1. Preschool children with disabilities - Those children with disabilities, ages 3 through 5, inclusive, determined eligible for special education services under existing federal and state laws, rules and regulations, and policies governing special education.
2. Special education services - Services relating to instruction of preschool children with disabilities.
3. Local education agency - A county or city school system in the State of Alabama.
4. Free appropriate public education - That program as defined by federal statute under Public Law 91-230, and all regulations and amendments thereto.

Section 4. The provisions of the Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not effect the part which remains.

Section 5. All laws, or parts of laws, which conflict with this Act are hereby repealed.

Section 6. This Act shall become effective with the beginning of the 1991-92 school year upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 29, 1991

Time: 5:09 P.M.

Act No. 91-475

H. 292 — Reps. Butler, Beasley, Johnson,
Mikell, Smith (C), Bowling

AN ACT

To amend Section 34-23-1, and 34-23-32, Code of Alabama 1975, which requires the annual registration of drug manufacturers with the state board of pharmacy, so as to likewise require wholesale distributors of drugs to register annually with said board, and to increase the board's fee for permits and renewals of permits.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-23-1 and Section 34-23-32, Code of Alabama, 1975, is hereby amended to read as follows:

“34-23-1

(1) **BOARD OR STATE BOARD.** The Alabama state board of pharmacy.

(2) **PHARMACIST.** Any person licensed by the Alabama state board of pharmacy to practice the profession of pharmacy in the state of Alabama and whose license is in good standing.

(3) **ASSOCIATION.** The Alabama Pharmaceutical Association.

(4) **PHARMACY.** A place licensed by the Alabama state board of pharmacy in which prescriptions, drugs, medicines, medical devices, chemicals and poisons are sold, offered for sale, compounded or dispensed, and shall include all places whose title may imply the sale, offering for sale, compounding or dispensing of prescriptions, drugs, medicines, chemicals or poisons.

(5) **PERSON.** Any individual, partnership, corporation, association, trust or other entity.

(6) **SALE.** Barter, exchange or gift, or offer thereof, and shall include each such transaction made by any person, whether a principal, proprietor, agent, servant or employee.

(7) **MEDICAL PRACTITIONER.** Any physician, dentist or veterinarian, or any other person authorized by law to treat, use or prescribe medicine and drugs for sick and injured human beings or animals in this state.

(8) **HOSPITAL.** An institution for the care and treatment of the sick and injured licensed by the Alabama state board of health and authorized to be entrusted with the custody of drugs and medicines, the professional use of such drugs and medicines being under the direct supervision of a medical practitioner or pharmacist.

(9) **WHOLESALE DRUG DISTRIBUTORS.** Every person in this state engaged in the business of distributing drugs and medicines for resale to pharmacies, hospitals, practitioners, government agencies or other lawful outlets permitted to sell drugs or medicines. The sale, purchase, or trade of a drug by a retail pharmacy to another retail pharmacy or practitioner, for relief of temporary shortages, is exempt from this definition. Also exempt from this definition shall be (a) intracompany sales, (b) manufacturer and distributor sales representatives who distribute drug samples, (c) charitable organizations distributing to non-profit affiliates of that organization, (d) certain purchases by hospitals or other health care entities that are members of a group purchasing organization, and (e) the distributors of blood and blood components.

(10) **MANUFACTURER.** Every person, except a pharmacy, in this state who prepares, derives, produces, compounds, or packages any drug, medicine, chemical or poison.

(11) **REPACKAGER.** Every persons who purchases or acquires from a manufacturer or distributor, a drug, medicine, chemical or poison for the purpose of bottling, labeling or otherwise repackaging for sale or distribution. This definition shall not apply to a physician licensed to practice medicine who as a part of his or her professional practice dispenses, administers, sells, or otherwise distributes any drug to a patient.

(12) **DRUGS.** All medicinal substances, preparations and devices recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal uses in the cure, diagnosis, mitigation, treatment or prevention of disease in man or animal and all substances and preparations other than food intended to affect the structure or any function of the body of man or animal.

(13) **LEGEND DRUG.** Any drug, medicine, chemical or poison bearing on the label the words, "caution, federal law prohibits dispensing without prescription," or similar wording indicating that such drug, medicine, chemical or poison may be sold or dispensed only upon the prescription of a licensed medical practitioner.

(14) **MEDICINE.** Any drug or combination of drugs that has the property of curing, diagnosing, preventing, treating, or mitigating diseases or that which may be used for such purposes.

(15) **POISON.** Any substance other than agricultural products and pesticides which when applied to, introduced into or developed within the body in relatively small quantities by its inherent chemical action uniformly produces serious bodily injury, disease or death.

(16) **CHEMICAL.** Any substance of a medicinal nature, whether simple or compound, obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(17) **PRESCRIPTION.** Any order for drug or medicinal supplies, written or signed or transmitted by word of mouth, telephone, telegraph, closed circuit television or other means of communication by a legally competent practitioner, licensed by law to prescribe and administer such drugs and medical supplies intended to be filled, compounded or dispensed by a pharmacist.

(18) **DISPENSE.** To sell, distribute, leave with, give away, dispose of, deliver or supply a drug or medicine to the ultimate user or their agent.

(19) **EXTERN.** A candidate for licensure as a pharmacist during the time prior to graduation from an accredited college or pharmacy.

(20) **INTERN.** A candidate for licensure as a pharmacist during the practical training period of a three-month duration subsequent to graduation from an accredited college of pharmacy.

(21) **PRECEPTOR.** A person who has been duly licensed to practice pharmacy for a minimum of three years, the last year of which must have been in the active practice of pharmacy in this state, and whose employment shall be on a full-time basis in a pharmacy approved for intern training.

(22) **PATENT OR PROPRIETARY MEDICINES.** Completely compounded nonprescription packaged drugs, medicines and non-bulk chemicals which are sold, offered, promoted or advertised by the manufacturer or primary distributor under a trademark, trade name or other trade symbol, and the labeling of which conforms to the requirements of the federal Food, Drug and Cosmetic Act; provided, that this definition shall not include:

a. Drugs which are only advertised and promoted professionally to licensed physicians, dentists or veterinarians by manufacturers or a primary distributor thereof;

b. A narcotic or drug containing a narcotic.

c. A drug the label of which bears substantially either the statements "caution — federal law prohibits dispensing without prescription" or "warning — may be habit forming"; or

d. A drug intended for injection.

(23) LICENSE. The grant of authority by the state board of pharmacy to a person authorizing him to engage in the practice of pharmacy in this state.

(24) PERMIT. The grant of authority by the state board of pharmacy to any person, firm or corporation authorizing the operation of a pharmacy, wholesale drug distributor, repackager, bottler, manufacturer, or packer of drugs, medicines, chemicals or poisons for medicinal purposes. Non-resident Wholesale Drug Distributors registered with the appropriate agency, in the state in which they are domiciled, and operating in compliance with PDMA standards, shall be allowed to do business in the state of Alabama. Provided, however, that no permit shall be required of any physician licensed to practice medicine for any act or conduct related to or connected with his or her professional practice.

(25) PROFESSIONAL DEGREE. A degree in pharmacy requiring a minimum of five academic years.

“34-23-32” Drug manufacturers; wholesale drug distributors.

“Every manufacturer, bottler or packer repackager, or wholesale drug distributor, of medicines, chemicals or poisons for medicinal purposes in this state shall register annually with the board by application for a permit on a form furnished by the board and accompanied by a fee to be determined by the board, but said fee shall not be less than \$250.00 nor more than \$1,000.00 for a new establishment or a fee to be determined by the board, but said fee shall not be less than \$125.00 nor more than \$500.00 annually for a renewal permit, or a fee to be determined by the board, but said fee shall not be less than \$125.00 nor more than \$500.00 for a permit due to transfer of ownership, and shall employ a full-time licensed pharmacist whose principal duty shall be confined to on-premise pharmaceutical operations. Wholesalers Drug Distributors, who strictly limit their operation to distribution of drugs, medicines, chemicals or poisons for medicinal purposes are exempt from the requirement to employ a full-time licensed pharmacist. The professional practice of any physician licensed to practice medicine is exempt from the requirements of this section. All permits issued under this section shall expire December 31 of each calendar year. Each application for the renewal of the permit must be made on or before the last day of February of each year, at which time the previous permit shall become null and void. A penalty of \$25.00 for each overdue month shall be assessed in addition to the permit fee for renewal of delinquent permits. For each application for a permit made and found to be satisfactory by the board, the secretary of the board shall issue to the applicant a permit for such manufacturing or wholesale establishment, which shall be displayed in a conspicuous place. All such companies in this state

must, before shipping any drug bearing the legend, "caution, federal law prohibits dispensing without prescription" or similar wording causing these drugs to be known as legend drugs to new customers, assure themselves that the recipient is either a duly licensed doctor of medicine, veterinary medicine or holds a registered pharmacy permit from the board by contacting the office of the board. No such company shall ship any legend drug to any person or firm after receiving written notice from the board that such person or firm no longer holds a registered pharmacy permit. Any person violating the provision of this section shall be guilty of a misdemeanor.

Section 2. Any requirements established by the FDA Guidelines, as required by the Federal Prescription Drug Marketing Act of 1987 (PDMA), specifically addressed in the above sections, shall be adhered to by the affected parties.

Section 3. This section shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:10 P.M.

Act No. 91-476

H. 326 — Reps. Hamilton, Holley, Black (M),
Carter, Parker (P), Lindsey,
Butler, Laird, Layson, Smith (R),
Richardson, Poole, Payne, Hill,
Knight, Letson, Anderson, Warren

AN ACT

To prohibit those nonresidents fishing pursuant to sport fishing licenses provided for in Sections 9-11-55 and 9-11-56, Code of Alabama 1975, from taking or attempting to take fish from the public waters of this State by means of one or more trotlines having a combination of more than one hundred hooks, to require daily inspection of permissible trotlines and to prescribe certain criminal penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. Nonresidents fishing in the public waters of the State of Alabama pursuant to those licenses provided for by Sections 9-11-55 or 9-11-56, Code of Alabama 1975, are hereby prohibited from taking or attempting to take fish from said waters by means of one or more trotlines having a combination of more than 100 hooks. Said nonresidents are required to inspect permissible trotlines at least once each day.

Section 2. Any person who violates the provisions of this act, upon conviction, shall be guilty of a Class C misdemeanor.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:11 P.M.

Act No. 91-477

H. 578 — Rep. Parker (P)

AN ACT

Providing further for the compensation and expense allowances or other benefits of the superintendent of education of Morgan County upon the expiration of the current term of office; repealing conflicting laws or parts of laws; and specifically repealing Act. No. 87-257, H. 183, 1987 Regular Session (Acts 1987, p. 360).

Be It Enacted by the Legislature of Alabama:

Section 1. Effective with the next term of office, and thereafter, the superintendent of education of Morgan County shall be paid an annual salary of \$66,000.00 which shall be in lieu of all salaries, expense allowances or other benefits heretofore provided by law for said superintendent. Such salary shall be paid in monthly installments.

Section 2. The Morgan County board of education may, in their discretion, provide a reasonable expense allowance and other benefits for the said superintendent.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed and Act No. 87-256, H. 181, 1987 Regular Session (Acts 1987, p. 359) is hereby specifically repealed.

Section 5. The provisions of this act shall become effective on the expiration of the term of office of the incumbent county superintendent of education.

Approved July 29, 1991

Time: 5:12 P.M.

Act No. 91-478

H. 170 — Reps. Gullatt, Higginbotham,
Beasley

AN ACT

To amend Section 40-16-6, Code of Alabama 1975, which relates to the payment and distribution of financial institution excise taxes, so as to permit all incorporated municipalities to levy privilege license taxes on financial institutions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-16-6, Code of Alabama 1975, is hereby amended to read as follows:

“§40-16-6.

“The remittance of the excise tax herein required shall be made to the department of revenue at Montgomery, Alabama, with checks payable to the state treasurer of Alabama. The proceeds of the excise tax herein imposed by this chapter shall be, without delay, covered into the state treasury to the credit of the financial institution excise tax fund. Such amount of money as shall be appropriated for each fiscal year by the legislature to the department of revenue with which to pay the salaries, the cost of operation and the management of the said department shall be deducted, as a first charge thereon, from the taxes collected under and pursuant to section 40-16-4; provided, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to article 4 of chapter 4 of Title 41 of this Code and limited only to the amount appropriated with which to defray the expenses of operating said department for each fiscal year. The balance of the tax collected under and pursuant to said section 40-16-4 shall, on September 1 in each year, be distributed as follows: On certificate of the department of revenue the comptroller shall draw his warrant on the state treasurer payable to the county treasurer of each of the several counties in which such financial institutions are located for an amount equal to one fourth of the tax received from the institutions located in such county, after deducting the proportionate part of the expenses incurred in the administration of this chapter. On similar certificate the comptroller shall draw his warrant on the state treasurer in favor of the treasurer of each of the several municipalities in which such financial institutions are located for an amount equal to one half of the tax received from the institutions located in such municipalities, after deducting the proportionate part of the expenses incurred in the administration of this chapter. The amount remaining in such financial institution excise tax fund, after the payment of the expenses as heretofore in this chapter provided, and after the distribution to the counties and municipalities of their proportionate part of the said tax, shall be covered into the general fund of the state of Alabama. Any financial institution which

conducts its business in more than one municipality or in more than one county in this state shall, in making the return required by this chapter, report in detail the percentage of its total business in the state conducted in each such municipality and in each such county, and the portions of tax paid by each such financial institution due to be distributed to the municipality and county shall be distributed pro rata according to the percentage so reported to the several municipalities and counties where such business is conducted instead of solely to the one where the principal place of business of such financial institution is located in this state. No municipality or county within the state shall have the right to levy or assess any such excise tax for the privilege of engaging in such business in addition to that hereby levied and to be distributed to it as herein provided, except license taxes. However, license taxes on banks shall not be levied in excess of those which may be legally levied pursuant to section 11-51-130, provided however, that the license authorized by section 11-51-130(a)(1) through (12) may be levied only by the municipality where the bank has its principal place of business."

Section 2. This act shall become effective on the first day of the month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:14 P.M.

Act No. 91-479

H. 325 — Rep. Haynes

AN ACT

To amend Sections 12-17-220 and 36-26-10, Code of Alabama 1975, relating to certain employees within the district attorneys' offices and the State Merit System, so as to provide that assistant district attorneys, investigators, clerical, secretarial and other personnel employed in a district attorney's office serve at the pleasure of the district attorney and are in the exempt service of the state and to provide for its retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 12-17-220 and 36-26-10, Code of Alabama 1975, are hereby amended to read as follows:

"§12-17-220.

"(a) The district attorney of each judicial circuit is hereby authorized to employ, in such a manner as he shall determine necessary, assistant district attorneys, investigators, clerical, secretarial and other personnel, who shall be paid from funds available for that purpose. All of these employees shall serve at the pleasure

of the district attorney and shall not be considered employees under the State Merit System Act.

“(b) The district attorney is authorized to supplement the salaries of personnel employed within his office.

“(c) The district attorney is authorized to use funds available to him from all sources such as grants, appropriations, gifts and other sources for the purposes stated in this section or for any other law enforcement purpose.

“(d) Counties are authorized to supplement state expenditures as they deem necessary and shall provide such other financial support as required by laws in effect on September 30, 1977.”

“§36-26-10.

“(a) Positions in the service of the state shall be divided into the exempt, the unclassified and the classified service.

“(b) The exempt service shall include:

“(1) Officers elected by the vote of the people.

“(2) Officers and employees of the legislature.

“(3) All employees of a district attorney’s office.

“(4) Members of boards and commissions, whether appointed or self-perpetuating, and heads of departments required by law to be appointed by the governor or by boards or commissions with the approval of the governor.

“(5) All officers and employees of the state’s institutions of higher learning, teacher-training institutions and normal schools, educational, eleemosynary and correctional institutions which are governed and controlled by boards of trustees or similar governing bodies and secondary agricultural schools and vocational schools.

“(6) All inmate help in all charitable, penal and correctional institutions.

“(7) All commissioned and warrant officers and enlisted men of the national guard and naval militia of the state in their respective military and naval grades.

“(8) The governor’s private secretary, legal advisor, recording secretary and those employees of the governor’s office paid exclusively out of the governor’s emergency or contingent funds.

“(9) The employees of the state docks department engaged in railroad service and subject to the provisions of an act of congress known as the Railway Labor Act as amended or as it may hereafter be amended.

"The services listed in this subsection as exempt shall in no respect be subject to the provisions of this article, anything to the contrary notwithstanding.

"(c) The unclassified service shall include:

"(1) One confidential assistant or secretary for each board, commission and elected officer and, when requested by the governor, for each department head appointed by the governor; and

"(2) All employees of the governor's office not exempted. The positions in the unclassified service enumerated in this subsection may at the request of the appointing authority be filled by classified employees. Each of the employees thus appointed shall, at the conclusion of his occupancy of such position, resume his previous status in the classified service.

"(d) The classified service shall include all other officers and positions in the state service.

"(e) Except as to services denominated as exempt or unclassified services in subsections (b) and (c) of this section, the governor shall have the power by executive order to extend the provisions of this article to include additional positions or classes of positions.

"(f) Employees in the unclassified service shall be subject to the same rules and regulations of employment as apply to employees in the classified service except as to appointment and dismissal."

Section 2. The provisions of this amendatory act shall have retroactive effect to May 18, 1977.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:15 P.M.

Act No. 91-480

H. 420 — Reps. Petelos, Curry, Haynes
AN ACT

To amend Section 40-18-19(6), Code of Alabama 1975, relating to exemptions from state income taxes, so as to exempt all payments made to a retiree or beneficiary of a "defined benefit plan"; and to provide retroactive effect for the provisions hereof to January 1, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-18-19, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-19.

“(a) The following exemptions from income taxation shall be allowed to every individual resident taxpayer:

“(1) Retirement allowances, pensions and annuities, or optional allowances, approved by the board of control of the teachers’ retirement system of Alabama, which exempt status is set out in section 16-25-23;

“(2) Retirement allowances, pensions and annuities or optional allowances, approved by the board of control of the employees’ retirement system of Alabama, which exempt status is set out in section 36-27-28;

“(3) The first \$8,000.00 of any retirement compensation, retirement allowances, pensions and annuities, or optional allowances, received by any eligible fire fighter, as defined in sections 36-32-1 and 36-32-2, or his designated beneficiary, from any firefighting agency established in the state of Alabama, but only if such retirement compensation, retirement allowances, pensions and annuities, or optional allowances as are awarded as a result of fire protection services rendered. This subdivision shall become effective for the taxable years beginning January 1, 1987, and thereafter following its passage and approval by the governor, or upon its otherwise becoming a law; provided, that for the taxable years beginning on or after January 1, 1991, all of such pension and retirement payments shall be exempt from taxation;

“(4) The first \$8,000.00 of any retirement compensation, retirement allowances, pensions and annuities, or optional allowances received by any eligible peace officer, as defined in section 36-21-60(10), or his designated beneficiary, from any police retirement system established in the state of Alabama, but only if such retirement compensation, retirement allowances, pensions and annuities, or optional allowances are awarded as a result of police services rendered. This subdivision shall become effective for taxable years beginning January 1, 1984, and thereafter; provided, that for the taxable years beginning on or after January 1, 1991, all of such pension and retirement payments shall be exempt from taxation;

“(5) Income received as annuities under the United States retirement system from the United States government civil service retirement and disability fund including income received from the Tennessee valley authority’s pension system, income received as annuities under the United States foreign service retirement and disability fund or income received from any other United States government retirement and disability fund;

“(6) Beginning January 1, 1991, all payments made on or after such date to a retiree or his designated beneficiary under a “defined benefit plan,” as defined under section 414(j) of the Internal Revenue Code of 1986, as amended from time to time, to the extent such payment would be taxable for federal income tax purposes;

“(7) Net income realized by individuals and partnerships from time to time in the business of conducting a financial business employing moneyed capital coming into competition with the business of national banks, but only if such individuals and partnerships are subject to an excise tax imposed by this state on or with respect to such income;

“(8) In the case of a single person or a married person not living with husband or wife, a personal exemption of \$1,500.00 or, in the case of a head of a family or a married person living with husband or wife, a personal exemption of \$3,000.00, but a husband and wife living together shall receive only one personal exemption of \$3,000.00 against their aggregate income, and in case they make separate returns each must claim a personal exemption of \$1,500.00; and

“(9) Three hundred dollars for each person, other than husband or wife, dependent upon the taxpayer, and over half of whose support, for the calendar year in which the taxable year for the taxpayer begins, was received from the taxpayer. For the purposes of this section, “dependent” shall mean: a son or daughter of the taxpayer or a descendant of either; a stepson or stepdaughter of the taxpayer; a brother, sister, stepbrother or stepsister of the taxpayer; the father or mother of the taxpayer or an ancestor of either; a stepfather or stepmother of the taxpayer; a son or daughter of a brother or sister of the taxpayer; a brother or sister of the father or mother of the taxpayer; a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law of the taxpayer. As used in this paragraph the terms ‘brother’ and ‘sister’ include a brother or sister by the half blood. For the purpose of determining whether any of the foregoing relationships exist, a legally adopted child of a person shall be considered a child of such a person by blood.

“(b) Of the following personal exemptions allowed resident taxpayers, each nonresident individual taxpayer shall be allowed that proportion thereof that the adjusted gross income received by said nonresident individual taxpayer from sources within the state of Alabama bears to his or her adjusted gross income received from sources within and without the state of Alabama: In the case of a single person or a married person not living with husband or wife, a personal exemption of \$1,500.00 or, in the case of a head of a family or a married person living with husband or wife, a personal exemption of \$3,000.00, a husband and wife living together shall receive but one personal exemption of \$3,000.00 against their aggregate

income; and, in case they make separate returns, each must claim a personal exemption of \$1,500.00; and \$300.00 for each person, other than husband or wife, dependent upon and receiving his chief support from the taxpayer.”

Section 2. The provisions of this amendatory act shall be retroactively effective to January 1, 1991.

Approved July 29, 1991

Time: 5:16 P.M.

Act No. 91-481

H. 819 Reprs. Clark (W), Buskey (JE)

AN ACT

To amend Section 11-43C-35, Code of Alabama 1975, relating to the compensation of the mayors of Class 5 Municipalities, so as to provide for such compensation and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-43C-35, Code of Alabama 1975, is hereby amended to read as follows:

“§11-43C-35.

“The mayor elected hereunder shall receive an annual salary of \$42,000.00. Thereafter, the mayor’s salary shall be established as provided in section 11-43C-18, but in no event shall said salary be more than \$42,000.00. Additionally, the mayor shall receive an expense allowance in the amount of \$400.00 per month.”

Section 2. The provisions of this amendatory act shall be implemented at the beginning of the next term of office of the mayor.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:17 P.M.

Act No. 91-482

H. 132 — Rep. Hill

AN ACT

To amend Section 11-81-21, Code of Alabama 1975, relating to investment of municipal or county funds, so as to permit municipal and county funds to be invested

in certain open-end or closed-end investment trusts which are invested in direct obligations of the United States of America or repurchase agreements respecting such U. S. obligations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-81-21, Code of Alabama 1975, is hereby amended to read as follows:

“§11-81-21.

“Any municipal funds or county funds not presently needed for other purposes may be invested in any obligations in which sinking funds are now authorized to be invested, pursuant to section 11-81-19, and in addition in any of the following:

“(1) Direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America;

“(2) Obligations of any of the following federal agencies, which obligations represent the full faith and credit of the United States of America:

“a. Farmers Home Administration,

“b. General Services Administration,

“c. U.S. Maritime Administration,

“d. Small Business Administration,

“e. Government National Mortgage Association (GNMA),

“f. U.S. Department of Housing and Urban Development (HUD), and

“g. Federal Housing Administration (FHA);

“(3) U.S. dollar denominated deposit accounts and certificates of deposit with banks or savings institutions organized under the laws of the United States or any state thereof in amounts which are fully insured to the holder (now up to the \$100,000 maximum coverage) by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation (‘insured deposits’), and in amounts in excess of the insured deposits provided that all amounts in excess of the insured deposits shall be secured at all times by a perfected lien or security interest in pledged collateral of the same type and with the same limitations as may be pledged to secure deposits of the State of Alabama. The pledged collateral shall be deposited exclusively for the purpose of such pledge, with and held by a trust department of a bank organized under the laws of this state or under the laws of the United States having their principal

place of business in this state which may be the same bank as holds the deposit, or a federal reserve bank or branch thereof or a federal home loan bank serving savings institutions located in this state or deposited for safekeeping with any third party bank, trust company or savings and loan association organized either under the laws of the state of Alabama or of the United States having their principal place of business in this state;

“(4) Pre-refunded public obligations, defined as follows:

“Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (i) which are not callable at the option of the obligor prior to maturity or as to which irrevocable notice has been given by the obligor to call on the date specified in the notice, and (ii) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in subdivision (1) above, which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (iii) which fund is sufficient, as verified by an independent certified public accountant, to pay principal of and interest and redemption, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (i) of this paragraph, as appropriate, and (iv) which are rated, based on the escrow, in the highest rating category of Standard & Poor’s Corporation and Moody’s Investors Service, Inc., or any successors thereto; and

“(5) Interests, however evidenced, in any common trust fund or other collective investment fund maintained by any national or state chartered bank, trust company or savings and loan association having trust powers, or securities of or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, so long as the portfolio of such common trust fund, collective investment fund or investment company or investment trust consists only of investments authorized in subdivision (1) above, or repurchase agreements with respect to such investments. The fact that any financial institution making such investment on behalf of the municipality or county, or any affiliate of such financial institution, is providing services to the investment company or investment trust as an investment advisor, sponsor, distributor, custodian, transfer agent, registrar, or otherwise, and is receiving reasonable remuneration for such services, shall not preclude such institution from making the investment in

the securities of such investment company or investment trust; provided, however, that with respect to any account for municipal funds or county funds to which fees are charged for such services, the said financial institution shall disclose (by prospectus, account statement or otherwise) to the beneficiary of such account or to any third party directing investments the basis (expressed as a percentage of asset value or otherwise) upon which the fee is calculated.

“The terms ‘municipal funds’ and ‘county funds’ as used in this section shall include all general, special, permanent, trust and other funds, regardless of source or purpose, held or administered by any county, city or town, or by any officer or agency thereof, in the state of Alabama.

“Investments of municipal funds or county funds shall be made by the officer or agency controlling their disposition. Such county, city or town, or official or agency thereof, may at any time sell such obligations purchased pursuant to this section, and the money received from such sale and the interest and profits on such investment shall be credited to the fund from which the investment was made. Any such obligation may be deposited for safekeeping with any bank, trust company or savings and loan association organized either under the laws of the state of Alabama or of the United States.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:18 P.M.

Act No. 91-483

H. 57 — Rep. Buskey (JE)

AN ACT

To amend §27-8-10, Code of Alabama 1975, so as to reduce the waiting period for a person who failed to pass two examinations for licensing as a life or disability insurance agent; to reduce said waiting period for a person being examined for licensing as a property and casualty agent pursuant to §27-7-10, Code of Alabama 1975; and to expressly repeal §27-7-16, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. §27-8-10, Code of Alabama 1975, is hereby amended to read as follows:

“§27-8-10.

“No person who has taken and failed to pass two examinations given pursuant to section 27-8-7 shall be entitled to take any further

examination until after the expiration of three months from the date of the last examination in which he failed to pass. If such person thereafter fails to pass two more such examinations, he shall not be eligible to take any further examination until after the expiration of six months from the date of his last unsuccessful examination. An examination fee shall be paid for each and every examination; except, that an applicant shall be permitted to take a single examination covering all classes of insurance contracts as defined in section 27-8-7."

Section 2. No person who has taken and failed to pass two examinations given pursuant to §27-7-10 shall be entitled to take any further examination until after the expiration of three months from the date of the last examination which he failed to pass. If such person thereafter fails to pass two more such examinations, he shall not be eligible to take any further examination until after the expiration of six months from the date of his last unsuccessful examination. An examination fee shall be paid for each and every examination.

Section 3. §27-7-16 of the Code of Alabama 1975, is hereby specifically repealed.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:19 P.M.

Act No. 91-484

H. 708 — Rep. Layson

AN ACT

Relating to Pickens County; repealing Act No. 83-706, H. 857, 1983 Regular Session and Act No. 84-554, 1984 Regular Session, which provide for assessments on forest lands for fire protection.

Be It Enacted by the Legislature of Alabama:

Section 1. In Pickens County, Act No. 83-706, H. 857, 1983 Regular Session and Act No. 84-554, 1984 Regular Session, are hereby repealed.

Section 2. This act shall be retroactive to October 1, 1990.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:20 P.M.

Act No. 91-485

H. 613 — Reps. Mathis, Beasley, Carothers

AN ACT

Relating to compensation for the sheriff of Houston County; providing for an increase in such compensation commencing with the next term of office.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing with the next term of office, the sheriff of Houston County, Alabama, shall receive additional compensation in the sum of \$15,000.00 per annum payable from the general fund of Houston County in equal installments, in the same manner as other county employees are paid. Such compensation shall be in addition to any expense allowance or other compensation except any expense allowance which has become null and void on the effective day of this act.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. The provisions of this act shall become effective with the next term of office for the sheriff of Houston County.

Approved July 29, 1991

Time: 5:21 P.M.

Act No. 91-486

H. 614 — Reps. Mathis, Beasley, Carothers

AN ACT

Relating to Houston County; providing an additional expense allowance for the sheriff of Houston County; and providing for an expiration date thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply to Houston County and to no other county.

Section 2. As used herein, these terms have the meanings hereby given them: "county" means Houston County; "sheriff" means the sheriff of Houston County, Alabama.

Section 3. Commencing October 1, 1991, the sheriff of Houston County shall receive a monthly expense allowance in the amount of Fifteen Thousand Dollars (\$15,000.00) per annum. This expense allowance shall be in addition to all other salaries and other benefits provided by law for such office.

Section 4. All expense allowances provided for and by this act shall be paid each month from the general fund of the treasury of Houston County, in the same manner as county employees are paid. The sheriff receiving this expense allowance shall not be required to file an accounting thereof.

Section 5. The provisions of this act shall become null and void at the expiration of the current term of office of sheriff in Houston County.

Section 6. All laws or parts of laws, whether general, local or special, in conflict with any part of this act are hereby repealed to the extent of any such conflict.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. The provisions of this act shall become effective October 1, 1991.

Approved July 29, 1991

Time: 5:22 P.M.

Act No. 91-487

H. 622 — Reps. Carothers, Beasley, Mathis

AN ACT

Relating to the City of Dothan in Houston County; to amend further Section 4 of Act No. 103, H. 363, Regular Session 1953 (Acts of Alabama 1953, p. 145), entitled "An Act to Establish a City of Dothan Pension and Retirement System," and as amended by Act No. 82-208, which act relates to the City of Dothan's Pension and Retirement System, so as to provide further for the authorized investments of the Pension Board.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 103, H. 363, Regular Session 1953 (Acts of Alabama, p. 145), as amended by Act No. 82-208, is hereby amended to read as follows:

"Section 4. THE METHOD OF FINANCING AND COMPOSITION OF FUNDS. All of the assets of the system shall be accounted for according to the purpose for which they are held among three (3) funds, namely, the Annuity Fund, the Pension Accumulation Fund and the Retirement Fund.

"(1) The Annuity Fund shall be a fund in which shall be accumulated contributions from the compensation of members. Contributions to and payments from the Annuity Fund shall be made as follows:

"(a) After the enactment of this act, six and one-half percent (6-1/2%) shall be the minimum and seven and one-half percent (7-1/2%) shall be the maximum to be deducted from each member's pay on each and every payroll based upon consideration, the appropriations of the city for its contribution to the system and upon an actuarial evaluation report of the system made by a reputable consultant and recommendation of the Pension Board and approval of the governing body of the city. Each member, as a condition of his or her employment, shall be deemed to consent and agree to the deduction provided for herein and the payment of such salary or compensation less such deductions shall be a complete and full discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefit provided under this act. The deductions herein provided for shall be made notwithstanding that the compensation provided for by law for any member shall be reduced thereby. Each amount so deducted shall be paid into the Annuity Fund and shall be credited to the individual account of the member whose compensation and deduction was made.

"(b) Membership in the system is cancelled upon termination of employment, and upon such termination the amount of the deduction made from each employee's compensation shall be refunded out of the Annuity Fund as stipulated as follows:

"(1) Members employed five years and less, all annuity payroll deductions, less ten percent (10%) of such deductions, which shall be deemed as payment to the system to cover the cost of protection afforded therein during the term of membership.

"(2) Members employed over five years and less than ten (10) years, all annuity payroll deductions, less five percent (5%) of such deductions, which shall be deemed as payment to the system to cover the cost of protection afforded therein during the term of membership.

"(3) Members employed ten (10) years and over, all annuity payroll deductions, less two and one-half percent (2-1/2%) of such deductions, which shall be deemed as payment to the system to

cover the cost of protection afforded therein during the term of membership.

"(4) Upon termination by death, while employed, all annuity payroll deductions shall be returned to the properly designated beneficiary of the member without any charge or deduction being made for protection as mentioned above.

"(c) Upon the termination of employment and membership in the system, the amount deducted from the refund to such employee as provided in subsection (b) above, shall be transferred into the retirement fund hereinafter provided for.

"(d) Upon the retirement of any employee-member of the system, the amount of the annuity funds accumulated or deposited to the credit of such retired employee, shall be transferred and credited to the individual account of the retired member in the retirement fund. All payments to such retired employee shall be charged to his individual account, so as to indicate from time to time the total amounts paid to such employee as benefits under the system.

"(2) Pension Accumulation Fund. The Pension Accumulation Fund shall be a fund into which the City of Dothan shall deposit each month a sum equal to the payroll annuity deductions from employee-members salaries from a minimum of six and one-half percent (6-1/2%) to a maximum of seven and one-half percent (7-1/2%) based upon an actuarial study by a reputable consultant and recommendation of the pension board and approval of the governing body of the city.

"(a) Upon the termination of employment and membership in the system, the amounts deposited into the Pension Accumulation Fund to the credit of such employee terminating employment and membership shall be transferred from the Pension Accumulation Fund into the retirement fund to be used for the payment of retirement benefits hereinafter provided for.

"(b) Upon the retirement of any member as hereinafter provided for, the amounts deposited into the Pension Accumulation Fund to the credit of such retiring employee shall be transferred from the Pension Accumulation Fund into the retirement fund and credited to the individual account of the retired employee-member as provided in Section 4 (1)(d) above, who shall receive benefits from the retirement funds as hereinafter provided. All payments to such retired employee shall be charged to his individual account, so as to indicate from time to time the total amounts paid to such employee as benefits under the system.

"(3) The Retirement Fund. The retirement fund shall be a fund into which shall be deposited all funds transferred from the

Annuity Fund and from the pension Accumulation Fund as provided for in subsections (1)(a), (2)(b)(1-2-3), (c) and (d) above of Section 4, from which retirement benefits are paid.

“(a) In addition to transfers from the Annuity and Pension Accumulation Funds, the pension board may take by gift, grant, devise or bequest, any money, personal property, real estate, or interest therein for the benefit of the fund.

“(b) The Pension Board of the City of Dothan shall have the sole and absolute discretion, if it deems it advisable to invest, reinvest and have invested and reinvested all funds of the system, real and personal subject to the limitations herein provided. No money of the fund shall be invested, paid out or disbursed except pursuant to order or operation of the board. The board shall be trustee, and have entire management and control of the fund, and shall direct or subsequently approve investment of monies of the fund not needed to meet disbursements provided for in this act. The board shall have the authority to invest in equity securities, fixed income securities, and cash or cash equivalents as defined in this act. Provided further, that total equity and corporate bond exposure shall not exceed forty percent (40%) of total fund assets at market value at any time. The following definitions shall apply to the provisions of this act:

“(i) Equity security shall mean common or preferred stock, or both, which carries a Standard & Poor’s rating of B+ or better, and which is subject to the jurisdiction of the Securities and Exchange Commission.

“(ii) Fixed income security shall mean bonds or securities of the United States of America and its agencies, whether direct, indirect, affiliated or sponsored, and corporate bonds which carry a rating of AA or better as rated by Standard & Poor’s and/or Moody’s.

“(iii) Cash or cash equivalents shall mean certificates of deposit, savings or money market accounts, protected and guaranteed by the Federal Depositors Insurance Corporation (FDIC) or collateralized by United States treasury bonds.

Interest and earnings from investments and deposits from all funds shall be deposited into the retirement fund.

“(c) Every three (3) years there shall be an evaluation study and report made of the system by a reputable actuary firm selected by the pension board and approved by the governing body of the city, and at other times as deemed necessary by the pension board to keep closer review of the system and approved by the governing body of the city. Upon receipt of the report of such actuary, the pension board shall make recommendations to the governing body of the city and to the legislative delegation for any needed revisions.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:23 P.M.

Act No. 91-488

H. 841 — Reps. Hamilton, Starkey

AN ACT

Relating to Lauderdale County and compensation for sheriff; providing further for the county supplement for such sheriff; and providing an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any and all other compensation, the sheriff of Lauderdale County shall receive a county supplement of \$10,000 per annum, payable in equal monthly installments from county funds.

Section 2. In Lauderdale County, the county supplement for the sheriff's salary shall be diminished by a sum equal to any increase in the amount of compensation provided by the state, pursuant to Section 36-22-16, Code of Alabama 1975, as amended or by local law.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved July 29, 1991

Time: 5:24 P.M.

Act No. 91-489

H. 850 — Rep. McDaniel

AN ACT

Relating to Marshall County, the probate judge shall not receive for record or permit the recording of any instrument, conveying title or any interest in real property that does not have legibly printed, typewritten or stamped thereon the grantee's name and latest complete address.

Be It Enacted by the Legislature of Alabama:

Section 1. The probate judge of Marshall County shall not receive for record or permit the recording of an instrument in which the title to real property, or of any interest therein, or lien thereon, is conveyed, granted, encumbered, assigned, or otherwise disposed of, unless such an instrument has endorsed on it, printed, typewritten or stamped thereon, the grantee's name and latest complete address.

Section 2. The probate judge shall not be liable in damages or penalty for any error or mistake in the performance of the duties by this act if committed in good faith.

Section 3. This requirement imposed by Section 1 above shall be construed to be in addition to and supplemental to any other laws relating to the recording of any vesting instrument, conveying title or any interest to real property.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:25 P.M.

Act No. 91-490

H. 864 — Rep. Thomas

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Camden in Wilcox County.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines and corporate limits of the municipality of Camden in Wilcox County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, the following territory, to-wit:

The N 1/2 of SW 1/4 of NW 1/4 of Section 29, T-12-N, R-8-E, Wilcox County, Alabama.

Section 2. In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the municipality of Camden is on file in the office of the Judge of Probate in Wilcox County, Alabama, and such map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:26 P.M.

Act No. 91-491

H. 851 — Rep. McDaniel

AN ACT

Relating to Marshall County; providing further for selling and redeeming lands for taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply to Marshall County.

Section 2. The procedure for selling and redeeming lands for taxes in such county shall be the same as provided in Title 40 of the Code of Alabama 1975, as amended, except that all such duties as are required of and are performed by the judge of probate shall be transferred to and be performed by the tax collector of said county, and the judge of probate shall be relieved of all such duties.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall take effect on the first day of the month next following the date of its enactment, but it shall not affect proceedings that were begun before such date.

Approved July 29, 1991

Time: 5:27 P.M.

Act No. 91-492

H. 913 — Reps. Smith (C), Powell

AN ACT

Relating to Chilton County; to repeal Act No. 90-304, 1990 Regular Session, entitled "An Act Relating to Chilton County, Alabama, to allow, in addition to the uses now otherwise allowed, the use of funds collected or obtained pursuant to the provisions of Title 11, Subtitle 3, Chapter 98, Code of Alabama 1975, by communications districts in said county, for the purchasing of road and street signs necessary for roads and streets which are renamed in order to establish E 911 service, due to the local needs of Chilton County not having been otherwise provided for by other legislation."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 90-304, 1990 Regular Session entitled "An Act Relating to Chilton County, Alabama, to allow, in addition to the uses now otherwise allowed, the use of funds collected or obtained pursuant to the provisions of Title 11, Subtitle 3, Chapter 98, Code of Alabama 1975, by communications districts in said county, for the purchasing of road and street signs necessary for roads and streets which are renamed in order to establish E 911 service, due to the local needs of Chilton County not having been otherwise provided for by other legislation." is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:28 P.M.

Act No. 91-493

H. 951 — Rep. Cullins

AN ACT

Relating to Tallapoosa County; amending Act No. 81-419, H. 906, 1981 Regular Session, which relates to the compensation of election officials, so as to increase said compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 81-419, H. 906, 1981 Regular Session, is hereby amended to read as follows:

"Section 1. In Tallapoosa County, election officials who work at polling places are hereby entitled to an additional per diem allowance in such an amount as will, together with any amount paid by the state, make the total paid to such officials forty dollars (\$40.00) for each day they work at the polls. If the amount paid to such officials as compensation or expense allowance by the state increases in the future, then the amount paid by the county under this act shall automatically decrease in a like amount. The expense allowance provided for in this act shall be paid from the general fund of the county."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:29 P.M.

Act No. 91-494

H. 958 — Rep. Drake

AN ACT

Relating to Cullman County; abolishing the office of constable and providing an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In Cullman County the office of constable shall be abolished, pursuant to Section 36-23-1 of the Code of Alabama 1975. All assets, money, property, real or personal, equipment and supplies belonging to such office shall be transferred to the county governing body for use or disposition as they shall deem proper for the county.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:30 P.M.

Act No. 91-495

H. 986 — Rep. Hammett

AN ACT

Relating to the City of Opp in Covington County; authorizing an additional ad valorem tax to be used for the general educational purposes and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. In Covington County, pursuant to subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901, and a resolution heretofore adopted by the City of Opp governing body after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem tax on the taxable properties in the city. The city governing body may impose an additional ad valorem tax in the amount of seven and one half (7½) mills on each dollar of taxable property in the city. The revenues from said tax shall be paid to the City Board of Education to be used for general educational purposes.

Section 2. The increase in the rate of said tax as provided herein is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the

provisions of subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:31 P.M.

Act No. 91-496

H. 987 — Rep. Harvey

AN ACT

Relating to Blount County; providing for the merging of the budgetary operations of the Revenue Commissioner's office; providing that said office shall be financed on a pro rata share basis from proceeds of state, county and municipal ad valorem taxes collected in the county; and providing for supplemental effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The Revenue Commissioner of Blount County, is hereby authorized to take the necessary action to merge the budgetary operations and functions of his office. Said office shall be financed on a pro rata share basis from the proceeds of state, county and municipal ad valorem taxes collected in the county. This act is not intended to affect any other county office.

Section 2. The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws regulating the Revenue Commissioner's office in Blount County; however, those laws or parts of laws which are in direct conflict or inconsistent herewith, are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:32 P.M.

Act No. 91-497

H. 978 — Rep. Parker (P)

AN ACT

Relating to the Town of Priceville in Morgan County, Alabama; to validate, in certain cases, annexations heretofore held by the Town of Priceville.

Be It Enacted by the Legislature of Alabama:

Section 1. Every annexation heretofore undertaken under any statutory procedure for annexation, by the Town of Priceville, Alabama, and which said annexation procedure has been completed, and notwithstanding any irregularity or defect in the procedure, shall be, and is hereby, ratified and confirmed and given effect in all respects as if all provisions of law relating to such annexation proceeding had been duly and legally complied with, but provided that this act shall not apply to any annexation or attempted annexation which, prior to the enactment of this act, has been held invalid by the Supreme Court of Alabama, or by the Civil Court of Appeals of Alabama, or by any final decree of the circuit court or other court of like jurisdiction in Morgan County and from which decree an appeal was not taken to the Supreme Court of Alabama or the Civil Court of Appeals of Alabama within the time provided by law for taking such appeals, or to any annexation, the validity of which is an issue in any pending suit commenced prior to the effective date of this act.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:33 P.M.

Act No. 91-498

H. 981 — Reps. Johnson, Haynes

AN ACT

To authorize the city council of the City of Sylacauga, Alabama, acting pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, to increase the rate at which there is levied and collected by the City of Sylacauga, on all taxable property situated within the City of Sylacauga, the special ad valorem tax for public school purposes which is authorized in Amendment No. 56 to the Constitution, to a maximum rate, for any tax year of the city, which is equal to \$2.10 on each one hundred dollars (21 mills on each dollar) of assessed value.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words and phrases used in this act and others evidently intended as the equivalent thereof, shall, in the absence of a clear implication herein otherwise, be given the following respective interpretations herein:

(a) "Amendment No. 56" means that certain amendment to the Constitution that was proposed by Act No. 383 enacted at the 1945 Regular Session of the Legislature of Alabama.

(b) "Amendment No. 373" means that certain amendment to the Constitution that was proposed by Act No. 6 enacted at the 1978 Second Special Session of the Legislature of Alabama.

(c) "City" means the City of Sylacauga, Alabama.

(d) "Council" means the city council of the city or other governing body of the city.

(e) "Constitution" means the Constitution of Alabama of 1901.

(f) "Special Tax" means the special ad valorem tax voted for public school purposes that is authorized in Amendment No. 56 and pursuant to an election held in the city on November 9, 1959, to be levied and collected on taxable property in the city.

Section 2. The city is presently authorized to levy and collect the special tax at a rate of \$.90 on each one hundred dollars (9 mills on each dollar) of assessed value pursuant to Amendment No. 56, an election held in the city on November 9, 1959, and proceedings heretofore taken by the council under Amendment No. 373. Pursuant to a resolution adopted by the council in accordance with the provisions of Amendment No. 373, the city proposes to increase the rate at which the city is authorized to levy and collect the special tax to a maximum rate, for any tax year, which is equal to \$2.10 on each one hundred dollars (21 mills on each dollar) of assessed value.

Section 3. Pursuant to subsection (f) of Amendment No. 373 and a resolution heretofore adopted by the council after a public hearing, the council is hereby authorized to increase the rate at which the city is authorized to levy and collect the special tax to a maximum rate, for any tax year, which is equal to \$2.10 on each one hundred dollars (21 mills on each dollar) of assessed value.

Section 4. The increase in the rate at which the special tax may be levied and collected pursuant to this act is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:34 P.M.

Act No. 91-499

H. 983 — Rep. Anderson

AN ACT

Relating to Morgan County; providing for an expense allowance for the members of the jury commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Each member of the jury commission of Morgan County shall be paid an expense allowance of \$300.00 per month. Such expense allowance shall be in lieu of any other expense allowances payable from the county and shall be paid from the general fund of the county.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:35 P.M.

Act No. 91-500

H. 1002 — Rep. Harper

AN ACT

Relating to Mobile County, providing for additional compensation to members of the board of directors of certain public utility authorities.

Be It Enacted by the Legislature of Alabama:

Section 1. In Mobile County, the members of the board of directors of any authority, created or operated pursuant to Sections 11-88-1 through 11-88-21, Code of Alabama 1975, which operates a public water system, a public sewer system or a fire protection facility and which serves 6,500 or more customers, shall, in addition to any other compensation and if authorized by resolution of the board of directors of the authority, be compensated for performance of their duties as follows:

(a) The chairman of the board shall be compensated in an additional amount not to exceed \$400.00 per month; and

(b) Each member of the board shall be compensated in an additional amount not to exceed \$300.00 per month.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:36 P.M.

Act No. 91-501

H. 892 — Rep. Bryant

AN ACT

Relating to Hale County; to provide for an additional expense allowance for the county coroner.

Be It Enacted by the Legislature of Alabama:

Section 1. In Hale County, the county coroner is hereby authorized to receive an expense allowance of \$200.00 per month and a mileage allowance equal to the amount of mileage allowance paid state employees. Said expense and mileage allowances shall be in lieu of other compensation, expense and mileage allowances or benefits granted to the coroner and shall be payable from the county general fund.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:37 P.M.

Act No. 91-502

H. 934 — Rep. Clay

AN ACT

Relating to Macon County; authorizing the Macon County board of education to increase the ceiling for the superintendent of education and to set the salary of the superintendent of education; and providing for the board of education to increase or set expense allowances, any other compensation and/or supplement as provided by law.

Be It Enacted by the Legislature of Alabama:

Section 1. All laws to the contrary notwithstanding, the Macon County board of education is hereby authorized to increase the salary ceiling for the superintendent of education to \$70,000.00 and shall set a salary for said superintendent up to \$70,000.00. The Macon County board of education shall increase or set expense allowances, any other compensation and/or supplement as provided by law.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:38 P.M.

Act No. 91-503

H. 1018 — Reps. Hogan, Cagle

AN ACT

Relating to Walker County and the 14th Judicial Circuit, to levy certain additional costs and charges of court, to provide said costs and charges shall be placed in a special hazardous duty pay fund, to provide hazardous duty pay for certain deputy sheriffs and jailers, to authorize the county commission to increase the amount of hazardous duty payments, and to provide for implementation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Any law whether special, local or general to the contrary notwithstanding, there is hereby levied an additional cost or charge of \$10.00 upon any criminal or civil case including, but not limited to, felony cases, misdemeanor cases and traffic violation cases, whose jurisdiction is in the district court, circuit court, juvenile court or domestic relations court of the 14th Judicial Circuit. Provided however, in lieu of the cost or charge provided heretofore in this act, there is hereby levied a cost or charge of \$2.50 upon every case whose jurisdiction is the small claims court of the 14th Judicial Circuit. The costs and charges levied by this act shall be in addition to all other costs and charges presently levied. Said costs and charges shall be collected as other costs and charges. The levy of said costs and charges shall commence on the effective date of this act and all cases pending at said time shall be subject to the levy of costs and charges as provided herein.

All money derived from said costs and charges shall be remitted to the Walker County commission and placed in a special fund to be known as the hazardous duty pay fund. Hazardous duty pay, as provided in this act, shall be paid exclusively from said fund and all funds so deposited shall be used solely to accomplish the provisions of this act.

In the event funds collected under this act are insufficient to pay the monthly hazardous duty pay to each deputy and jailer, the Walker County commission shall have no responsibility or liability to fund said payments and all hazardous duty pay shall be suspended until such time as sufficient funds are collected under this act and deposited in the hazardous pay fund.

Section 2. In addition to all other compensation presently paid, each sworn deputy sheriff employed full time by the Walker County commission shall be entitled to hazardous duty pay equal to \$150.00 per month. Said sum shall be paid in the same manner as the salary of said deputy sheriff is paid except that the Walker County commission, in its discretion, may elect to pay all of said sum in one pay period each month.

In addition to all other compensation presently paid, each jailer employed full time by the Walker County commission shall be entitled to hazardous duty pay equal to \$100.00 per month paid in the same manner as deputy sheriff hazardous duty pay is paid.

The provisions of this act shall not apply to the sheriff of Walker County or chief deputy or chief jailer.

The Walker County commission shall begin paying said hazardous duty pay to said deputy sheriffs and jailers on October 1, 1991, or the nearest payroll date thereafter.

The Walker County commission is hereby authorized to increase hazardous duty payments to deputy sheriffs and jailers, in its discretion, provided that all such increases are paid from the hazardous duty pay fund created by this act.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:39 P.M.

Act No. 91-504

H. 1025 — Reps. Hogan, Cagle

AN ACT

Relating to Walker County; to require the installation and maintenance of an improved system of indexing, recording and re-creation of documents and plat system title to property and other documents recorded in the office of the judge of probate; to provide the collection and disposition of a special indexing and recording fee; to provide for the collection of additional probate court cost fees; and to provide that said system shall constitute official and permanent records in Walker County.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall only apply in Walker County. The purpose of this act is to facilitate the use of public records in property transactions in Walker County by providing for the installation of an improved system of indexing, recording and re-creation and documents affecting the title to real and personal property that are recorded in the office of the judge of probate and for the indexing, recording and re-creation and documents affecting the title to real and personal property that are recorded in the office of the judge of probate and for the indexing, recording and re-creation of other instruments, documents and other uses in the discretion of the judge of probate.

Section 2. The following words and phrases, including the plural of any thereof, whenever used in this act, shall have the following respective meanings:

“Real Property Instrument” means and includes any instrument or document affecting the title to real property that may now or hereafter be filed for record in the probate office pursuant to the applicable requirements of the laws of this state, including, but without limitation to, Section 12-13-43, Code of Alabama 1975, and all statutes providing for the filing and recording of notices or statements of liens of any kind, notices of judgment, and plats or maps showing subdivisions of real estate.

“General Property Instrument” means a real property instrument that affects the title to personal property as well as real property.

“Personal Property Instrument” means any instrument or document affecting the title to personal property only (as distinguished from real property) that may be now or hereafter titled for record in the probate court, in accordance with the applicable requirements of the laws of this state, including and particularly said Sections 35-4-50 and 35-4-90, Code of Alabama 1975.

“Improved Indexing, Recording and Re-creation System” means a system of indexing, recording and re-creating property instruments and personal property instruments in the probate office and, in the discretion of the judge of probate, of indexing, recording and re-creating other instruments and documents, which system when completed, will consist of the following:

(1) Equipment necessary and suitable to prepare index, record and, where applicable, re-create records.

Section 2. The judge of probate is hereby authorized to provide for the installation and thereafter for the maintenance of an improved indexing, recording and re-creation system in the probate office of the county. The initial installation of the improved indexing, recording and re-creation system shall include the following:

(a) The acquisition of the equipment provided for in the definition hereinabove set forth of an improved indexing, recording and re-creation system.

(b) The establishment of procedures for the continued indexing, recording and re-creation and filing of all instruments and records that will, after the effective installation date, constitute a part of the improved indexing, recording and re-creation system.

(c) The initial installation of the improved indexing, recording and re-creation system shall be performed by a person or persons, firm or corporation engaged in records management business and experienced in setting up county records; and such initial installation shall be supervised and inspected by a person who is experienced in handling records pertaining to abstracts and title. Following its installation in the county, the improved indexing, recording and re-creation system shall be thereafter maintained in the county and all real property instruments, general property instruments and personal property instruments and other documents and records herein provided to constitute a part of the said system, that may be thereafter filed for record in the probate office of the county shall be in accordance with the afore-said improved indexing, recording and re-creation system. Each real property instrument and each personal property instrument shall be operative as a record from the time of its delivery to the judge of probate of the county, in accordance with the provisions of existing law, including particularly Section 12-13-43 of the Code of Alabama 1975.

Section 3. Following the effective installation date, real property instruments, personal property instruments, and other documents and records provided herein to be indexed with computer generated indexes to be filed in binders, shall constitute the official record of such instruments for the purpose of Section 12-13-43, Code of Alabama 1975.

Section 4. All provisions of the laws of Alabama with respect to the recording of real property instruments, personal property instruments, general property instruments, miscellaneous instruments, and other instruments and records that may constitute part of an improved indexing, recording and re-creation system installed hereunder (including, but without limitation to, the provisions of Section 12-13-43 of the Code of Alabama 1975, and the provisions of all statutes respecting the filing and recording of notices or statements of liens of any kind, notices of lis pendens, declaration of claims or exemptions, certificates of judgment, or plats or maps showing subdivisions of real estate), that are not inconsistent with the provisions of this act shall continue in effect with respect to an improved indexing system installed hereunder, the recording of instruments therein, and the duties of the judge of probate with respect thereto.

Section 5. The initial installation costs shall be paid entirely out of the said special indexing, recording and re-creation fees. Nothing contained in this section, however, shall prohibit the county from using any part of its own funds for the purpose of paying the cost of operating and maintaining, after the initial installation, any improved system installed pursuant to the provisions of this act.

Section 6. Thirty days after the date of this act becomes applicable to Walker County a special indexing, recording and re-creation fee of five dollars (\$5.00) shall be paid and collected by its judge of probate, with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said judge in the probate office of the county, and, on and after such date, no such instrument shall be received for record in the office of the said judge of probate unless the said special indexing, recording and re-creation fee of five dollars (\$5.00) is paid thereon. Said special indexing, recording and re-creation fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument, personal property instrument, and for the recording of other instruments and documents in the probate office of the county. All special indexing, recording and re-creation fees so collected shall be paid into a special fund of the judge of probate. These funds shall be used at the discretion of the judge of probate for an improved indexing, recording and re-creation system and/or other equipment, maintenance and services necessary for the improvement of the office of the judge of probate.

Section 7. Thirty days after the date this act becomes applicable to Walker County, a fee of ten dollars (\$10.00) shall be collected by its judge of probate on every court case filed in the probate court of Walker County, Alabama, this amount shall be in addition to all other costs and fees heretofore collected. Said additional fee shall be paid into the special fund of the judge of probate created by Section 6 of this act.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this act are hereby repealed.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:40 P.M.

Act No. 91-505

H. 1029 — Rep. Hill

AN ACT

Relating to the Eighteenth Judicial Circuit of Alabama; to amend Act No. 79-523, H. 426, 1979 Regular Session, so as to provide an increase in expense allowance for each official reporter within the said judicial circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 79-523, H. 426, 1979 Regular Session, is hereby amended to read as follows:

“Section 1. In addition to all other allowances and compensation now provided by law, there shall be paid to each official court reporter of the eighteenth judicial circuit of Alabama in equal monthly installments, an allowance of \$5,400 per annum, for the purpose of defraying the expenses of such official court reporters in the performance of their official duties. The allowance provided for herein for the official court reporters shall be paid from the general funds of Shelby County.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:41 P.M.

Act No. 91-506

H. 1030 — Rep. Hill

AN ACT

Relating to Shelby County, amending Section 1 of Act No. 191, H. 525, 1971 Regular Session, which provides a special expense allowance of \$2,400.00 per annum for the presiding circuit judge of the Eighteenth Judicial Circuit above that of the other Circuit Judges, said allowance also being outside the current \$15,000.00 expense allowance for each Circuit Judge, so as to provide that such \$2,400.00 may be received by the presiding judge's confidential employee at his designation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 191, H. 525, 1971 Regular Session, is hereby amended to read as follows:

“Section 1. In lieu of the presiding circuit judge of the Eighteenth Judicial Circuit of this state receiving the \$2,400.00 special expense allowance heretofore authorized, for the purpose of defraying expenses in the performance of his official duties, said expense allowance in the amount of \$2,400.00 per annum, shall be paid to the presiding circuit judge’s confidential employee at his designation and shall be paid by Shelby County. The allowance herein provided for shall be paid in equal monthly installments from the county general fund. Further, the presiding circuit judge shall designate such person to the Shelby County Commission within ten (10) days of the date this act becomes law, and within ten (10) days of October 1 each year thereafter.”

Section 2. All other laws or parts of laws providing an expense allowance or county supplement for the said presiding circuit judge shall remain unchanged, and such presiding circuit judge’s expense allowance and county supplement currently aggregating \$15,000.00 per annum shall remain unchanged and be unaffected by this amendatory act.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:42 P.M.

Act No. 91-507

H. 1042 — Reps. Smith (C), Powell

AN ACT

Relating to Chilton County; authorizing the county coroner to appoint deputies.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Chilton County is hereby authorized to appoint one or more deputies, as he deems necessary, who

shall hold office at the pleasure of the coroner and perform such duties, from time to time, as the coroner may direct.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:43 P.M..

Act No. 91-508

H. 1050 — Rep. Poole

AN ACT

Relating to the City of Tuscaloosa in Tuscaloosa County; to amend Section 11 of Act No. 249, S. 291, 1947 Regular Session (Acts 1947, p. 174), so as to provide further for the civil service system governing the appointment of certain employees of the city.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11 of Act No. 249, S. 291, 1947 Regular Session (Acts 1947, p. 174) is hereby amended to read as follows:

“Section 11. Vacancies. — The city governing body shall notify the board of vacancies which occur in any department, and the board shall furnish to him the name and address, or names and addresses, of the candidate or candidates standing highest on the eligible list, and the said candidate or candidates shall receive the appointment or appointments to fill such vacancy or vacancies. All appointments shall be on probation for a period of six months from the date of appointment, persons appointed to the position of public safety employee (policeman, fireman or telecommunicator) shall be on probation for a period of one year from the date of appointment. Before the expiration of the period of probation, the head of the department concerned may, by and with the consent of the board, discharge any probationer upon assigning in writing his reasons therefor to the board. If a probationer be not discharged before the expiration of said probation period, his appointment shall be deemed complete.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:44 P.M.

Act No. 91-509

H. 1051 — Rep. Poole

AN ACT

Relating to Tuscaloosa County and the Firemen's and Policemen's Pension and Relief Fund for the City of Tuscaloosa; further amending Sections 4, 8 and 9 of Act No. 328, H. 854, 1959 Regular Session (Acts 1959, p. 907) as last amended, which provide for the composition of the Board of Trustees and the conduct of its business, so as to provide further for the membership of such board.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 4, 8 and 9 of Act No. 328, H. 854, 1959 Regular Session (Acts 1959, p. 907), as last amended, are hereby further amended to read as follows:

“Section 4. Board of Trustees.

“For the management and distribution of such fund, there is hereby created a Board of Trustees to be known as Board of Trustees of the Firemen's and Policemen's Pension and Relief Fund. Such Board of Trustees shall be composed of eleven members who shall be the mayor of the city, who shall be Chairman of such Board, the chief of the fire department, the chief of the police department, and three additional members from the fire department, three additional members from the police department and one retired fireman and one retired police officer to be selected as hereinafter provided.

“Section 8. Election of Members of Board.

“(a) Three members of said Board of Trustees shall be elected from among their number by the policemen who are entitled to vote in such election and three members of said Board shall be elected from their number by the firemen who are entitled to vote in such election. Neither the chief of police nor the chief of the fire department shall be entitled to vote in such elections. A special election shall be held within one hundred and fifty days after the effective date of this act in which one member of the Board of Trustees shall be elected from the police department and one member from the fire department. These special elections by

departments shall be held under the same procedure provided for regular elections. The members of the Board of Trustees elected at the special elections shall serve until the second Tuesday in January of 1990. A regular election for those two members shall be held on the second Tuesday, Wednesday and Thursday in January of 1990, and thereafter regular elections for those two members shall be held on the second Tuesday, Wednesday and Thursday in January of every third year. The members of the Board of Trustees who have been elected and are serving at the time of the passage of this act shall serve until the next scheduled regular election for these members, which is the second Tuesday, Wednesday and Thursday in January of every third year, beginning with the year January, 1989. All such elections shall be held independently of one another and shall be held at police headquarters for the police department and at fire station number one for the fire department, or some other place duly designated by the Board of Trustees, beginning at eight o'clock in the forenoon and continuing until five o'clock in the afternoon. Only firemen and policemen who are eligible to become members of the said Firemen's and Policemen's Pension and Relief Fund are to participate in the benefits thereof as herein provided shall be entitled to vote in such elections. Voting shall be by a secret ballot. The city clerk or his designee shall prepare the ballots which shall be printed, typewritten, mimeographed or reproduced by other means. He shall place on said ballots the names only of those nominated as candidates as herein provided, and the names of such as may request in writing that their own names be placed thereon as nominees. Any three members of the fire department eligible to vote in such election may nominate in writing a candidate willing to serve from the fire department, and any three members of the police department eligible to vote in such election may nominate in writing a candidate willing to serve from the police department. Such nominations and such requests from persons entitled to vote in said election that their own names be placed in nomination on such ballot shall be filed with the city clerk or his designee not earlier than two weeks before the date of such election and not later than five o'clock in the afternoon of Thursday immediately preceding such election. In the election where only one candidate from each department is to be elected, the candidate receiving the highest number of votes in that election shall hold office as such trustee for a term of three years beginning on the Monday next following that election and until his successor is elected and he must accept by notifying the Chairman of the Board of such acceptance. In the election where two candidates from each department are to be elected, the two candidates receiving the highest number of votes in that election shall hold office as such trustees for a term of three years beginning

on the Monday next following that election and until their successors are elected and each must accept by notifying the Chairman of the Board of such acceptance. The chief of the police department and one police officer selected by him and the chief of the fire department and one fireman selected by him shall act as election officials in their respective departments and, on the last election day immediately after the casting of such ballots, shall canvass and count the same for their respective departments and certify in writing in duplicate the number of ballots cast and the number of ballots received by each candidate for the office of trustee. After signing such certificates, each chief shall immediately post one copy thereof at the place of election and not later than twelve o'clock noon on the following day deliver one copy thereof together with all the ballots cast by his department, in a securely sealed envelope, to the Chairman of the Board of Trustees who shall on the day following said election in the presence of the chief of such fire department and of the chief of such police department, open said envelopes, examine said certificates and ascertain and determine the total number of ballots cast at said election for each of the candidates as such trustee, and shall issue certificates of election to the candidates receiving the highest number of votes as aforesaid. In case any two or more candidates shall have received the same number of votes, so that there would be no choice under the foregoing provision, then the Chairman of the Board of Trustees shall forthwith determine by lot from the persons so receiving such equal number of votes who shall be the trustee. No election shall be set aside for want of formality in balloting by such members, or in certifying or transmitting returns of such election by the officers or persons in charge thereof. Should a vacancy occur in the position of an elective member of the Board of Trustees, such vacancy shall, with reasonable promptness, be filled for the unexpired term from the department in which the vacancy exists, by the remaining members of said Board.

“(b) Election of members of Board for Retired Fireman and Retired Policeman.

“One member of said Board of Trustees shall be elected from among their number by the retired policemen who are entitled to vote in such election and one member of said Board shall be elected from their number by the retired firemen who are entitled to vote in such election. A special election shall be held within one hundred and fifty days after the effective date of this act in which one member of the Board of Trustees shall be elected from the retired members of the Police department and one member from the retired members of the Fire department. These special elections by retired members of Police and Fire departments shall be

held under the same procedure provided for regular elections. The members of the Board of Trustees elected at the special election shall serve until the second Tuesday in January of 1993. A regular election for those two members shall be held on the second Tuesday, Wednesday and Thursday in January of 1993, and thereafter regular elections for those two members shall be held on the second Tuesday, Wednesday and Thursday in January of every third year. All such elections shall be held independently of one another and shall be held at police headquarters for retired policemen and fire station number one for the retired firemen, or some other place duly designated by the Board of Trustees, beginning at eight o'clock in the forenoon and continuing until five o'clock in the afternoon. Only retired firemen and retired policemen who are eligible to become members of the said Firemen's and Policemen's Pension and Relief Fund are to participate in the benefits thereof as herein provided shall be entitled to vote in such elections. Voting shall be by a secret ballot. The city clerk or his designee shall prepare the ballots which shall be printed, typewritten, mimeographed or reproduced by other means. He shall place on said ballots the names only of those nominated as candidates as herein provided, and the names of such as may request in writing that their own names be placed thereon as nominees. Any three retired members of the fire department eligible to vote in such election may nominate in writing a candidate willing to serve from the retired members of the fire department, and any three members of the retired members of the police department eligible to vote in such election may nominate in writing a candidate willing to serve from the retired members of the police department. Such nominations and such requests from persons entitled to vote in said election that their own names be placed in nomination on such ballot shall be filed with the city clerk or his designee not earlier than two weeks before the date of such elections and not later than five o'clock in the afternoon of Thursday immediately preceding such election. In the election where only one candidate from each department is to be elected, the candidate receiving the highest number of votes in that election shall hold office as such trustee for a term of three years beginning on the Monday next following that election and until his successor is elected and he must accept by notifying the Chairman of the Board of such acceptance. The chief of the police department and one retired police officer selected by him and the chief of the fire department and one retired fireman selected by him shall act as election officials in their respective departments and, on the last election day immediately after the casting of such ballots, shall canvass and count the same for their respective departments and certify in writing in duplicate the number of ballots cast and the number of ballots

received by each candidate for the office of trustee. After signing such certificates each chief shall immediately post one copy thereof at the place of election and not later than twelve o'clock noon on the following day deliver one copy thereof together with all the ballots cast by his department, in a securely sealed envelope, to the Chairman of the Board of Trustees who shall on the day following said election in the presence of the chief of such fire department and of the chief of such police department, open said envelopes, examine said certificates and ascertain and determine the total number of ballots cast at said election for each of the candidates as such trustee, and shall issue certificates of election to the candidates receiving the highest number of votes as aforesaid. In case any two or more candidates shall have received the same number of votes, so that there would be no choice under the foregoing provision, then the Chairman of the Board of Trustees shall forthwith determine by lot from the persons so receiving such equal number of votes who shall be the trustee. No election shall be set aside for want of formality in balloting by such members, or in certifying or transmitting returns of such election by the officers or persons in charge thereof. Should a vacancy occur in the position of the elective member of the Board of Trustees, such vacancy shall, with reasonable promptness, be filled for the unexpired term from the department in which the vacancy exists, by the remaining members of said Board.

“Section 9. Board to Manage and Control Fund.

“The Board of Trustees shall be the trustee of such fund and shall have the exclusive management and control thereof, and all matters legitimately connected therewith. It shall have power to adopt and enforce such rules and regulations as may be necessary to enable it effectively and properly to carry into execution the purposes for which it was organized, and to enable it to properly manage and conduct the business and affairs entrusted to it, provided such rules and regulations shall in no wise contravene the provisions of this act, but shall be in conformity thereto. The Board of Trustees may employ investment counselors and agents to invest and manage such portions of the Fund as the Board may direct. The Board of Trustees shall hear and decide all applications for pension or relief under this act and its decisions on such applications shall be final and conclusive, and not subject to review or reversal, except by said Board. It shall cause to be kept a record of all its meetings and proceedings. From and after the beginning of the terms of the two members who are to be elected within one hundred and fifty (150) days from the effective date of this act, seven members of said Board shall constitute a quorum for the transaction of any and all business of said Board and the affirmative vote of seven members

shall be necessary and sufficient to adopt any resolution; prior to that time, six members of the Board shall constitute such quorum and the affirmative vote of six members shall be necessary and sufficient to adopt any resolution. Meetings of said board shall be held in rooms provided by the city at such time as it may be called to meet by the Chairman or by any two members. Neither the secretary nor any member of said Board, shall receive any salary or compensation for his services. The Board of Trustees shall authorize an actuarial study to be made of the Fund by some person, firm or corporation experienced in actuarial evaluation on or before January 30, 1967, and at least once every two (2) years thereafter and shall report the results of such study to all firemen and policemen who participate in the Fund."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:45 P.M.

Act No. 91-510

H. 1043 — Reps. Smith (C), Powell

AN ACT

Relating to Chilton County; providing certain additional compensation for the poll workers to be paid from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any compensation heretofore provided by law for the poll workers in Chilton County, each poll worker shall be entitled to a \$22.00 per working day increase in such compensation with such increase to be paid in the usual manner from the county general fund. Provided further, that in addition to such increase, the returning officer shall receive an extra ten dollars (\$10.00) per working day to be paid in like manner. In the event such poll workers are further compensated by the enactment of a general law providing compensation for poll workers throughout the state, the increases herein provided shall be granted only to the extent that such general law compensation for such workers fails to equal the county increases provided herein.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:46 P.M.

Act No. 91-511

H. 1044 — Reps. Smith (C), Powell

AN ACT

Relating to Chilton County, to provide for an additional expense allowance for the tax collector.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax collector of Chilton County is hereby entitled to receive an additional expense allowance in the amount of two hundred dollars (\$200.00) per month. Said expense allowance shall be in addition to any and all other compensation and expenses heretofore provided by law and shall be payable out of the county general fund in the same manner as other expense allowances are paid.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:47 P.M.

Act No. 91-512

H. 1045 — Rep. Holladay

AN ACT

To alter, rearrange and extend the boundaries and corporate limits of the municipality of Riverside, St. Clair County, Alabama, so as to annex certain territory to the municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundaries and corporate limits of the municipality of Riverside, St. Clair County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of the municipality, the following described territory in addition to the area now embraced within such boundaries and corporate limits, to-wit:

All of Section 13, Township 16 South, Range 4 East located East of the East right-of-way line of the Broken Arrowcreek Road, except the NE 1/4 of the NW 1/4 of said Section. Also all that part of Section 18, Township 16 South, Range 5 East West of Logan Martin Lake. All of the above described land is located above the 465.0 mean sea level elevation (normal pool) of Logan Martin Lake and includes all of Broken Arrow Estate East of Broken Arrow Creek Road; all Holladay Estates and Island Lake Estates and all other subdivisions (recorded or unrecorded) located in above described area.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:48 P.M.

Act No. 91-513

H. 1046 — Rep. Holladay

AN ACT

To alter, rearrange and extend the boundaries and corporate limits of the City of Pell City, St. Clair County, Alabama, so as to annex certain territory to the city.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundaries and corporate limits of the City of Pell City, St. Clair County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of the city, the following described territory in addition to the area now embraced within such boundaries and corporate limits, to-wit:

1. That portion of the Northwest quarter of the Southwest quarter of Section 33, Township 16 South, Range 4 East which lies West of Fishing Creek.

2. That portion of the Northeast quarter of the Southeast quarter of Section 32, Township 16 South, Range 4 East which lies West of Fishing Creek.

3. That portion of the Southeast quarter of the Northeast quarter of Section 32, Township 16 South, Range 4 East which lies West of Fishing Creek.

4. That portion of the Southeast quarter of the Southeast quarter of Section 29, Township 16 South, Range 4 East which lies South of Interstate 20 and also lies West of Fishing Creek.

5. All of the Northwest quarter of the Northeast quarter of Section 32, Township 16 South, Range 4 East.

6. All of the Southwest quarter of the Northeast quarter of Section 32, Township 16 South, Range 4 East.

7. All of the Northwest quarter of the Southeast quarter of Section 32, Township 16 South, Range 4 East.

8. All of the North half of the Northeast quarter of the Southwest quarter of Section 32, Township 16 South, Range 4 East. LESS AND EXCEPT the following described parcel. Commence at the Northwest corner of the Northeast quarter of the Southwest quarter of Section 32, Township 16 South, Range 4 East which is the point of beginning. Thence run North 89 degrees 41' 20" East along the quarter quarter line for 330.41 feet, thence run South 02 degrees 32' 35" West for 16.48 feet, thence run North 87 degrees 27' 05" West for 330.00 feet to the point of beginning.

9. A portion of the Southeast quarter of the Northwest quarter of Section 32, Township 16 South, Range 4 East which lies East of Spanish Garden Road herein described as follows: Commence at the Northeast corner of the Southeast quarter of the Northwest quarter of Section 32, Township 16 South, Range 4 East which is the point of beginning. Thence run North 89 degrees 56' 10" West along the quarter quarter line for 1182.54 feet to the East right-of-way of Spanish Garden Road, thence run South 08 degrees 15' 40" East along said right-of-way for 156.66 feet to the PC of a right-of-way curve (said right-of-way curve has a Delta of 32 degrees 33' right and a radius of 1004.93 feet). Thence run in a Southerly direction along the arc of said right-of-way curve for 570.91 feet to the PT, thence run South 24 degrees 17' 10" West along said right-of-way for 170.29 feet, thence South 82 degrees 45' 00" East for 115.62 feet, thence run South 19 degrees 39' 00" West for 37.79 feet, thence run South 87 degrees 27' 05" East for 312.77 feet, thence run South 22 degrees 00' 00" West for 210.00 feet, thence run South 02 degrees 32' 35" West for 155.94 feet to the South line of said quarter quarter section, thence run easterly along said quarter quarter section line to the Southeast corner of said quarter quarter section, thence run Northerly along said quarter quarter line to the point of beginning.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:49 P.M.

Act No. 91-514

H. 1034 — Reps. Knight, Smith (C)

AN ACT

Relating to Bibb County; authorizing the levy in such county of an additional tax, paralleling the state sales tax provided for in article 1 of chapter 23 of Title 40 of the Code of Alabama 1975, as amended; providing for certain exemptions; providing for the collection of such tax by the state department of revenue, and for the distribution and use of the proceeds thereof; providing for the enforcement of the act; providing penalties for violations of the act; and providing for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. All words, terms, and phrases that are defined in article 1 of chapter 23 of Title 40 of the Code of Alabama of 1975, as amended, shall, where used in this act have the meanings respectively ascribed to them in said article 1 except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

(1) **STATE SALES TAX STATUTES.** Article 1 of chapter 23 of Title 40 of the Code of Alabama 1975, which levies a retail sales tax for state purposes, and includes all statutes, heretofore enacted, which expressly set forth any exemptions from the computation of the tax levied in said article 1 and all other statutes heretofore enacted which expressly apply to, or purport to affect, the administration of said article 1 and the incidence and collection of the tax imposed therein.

(2) **STATE SALES TAX.** The tax imposed by the state sales tax statutes.

(3) **MONTH.** A calendar month.

(4) **FISCAL YEAR.** The period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Section 2. (a) There is hereby authorized to be levied and imposed in Bibb County, in addition to all other taxes of every kind now imposed by law, a county tax to be determined by the

application of rates against gross sales or gross receipts as the case may be, upon the unanimous recorded approval of a resolution by the Bibb County governing body, as follows:

(1) Upon every person, firm or corporation (including the State of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within Bibb County in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidence of debt or stocks, nor sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of over fifty tons burden), an amount equal to one percent (1%) of the gross proceeds of sales of the business except when a different amount is expressly provided herein. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business.

(2) Upon every person, firm or corporation engaged or continuing within Bibb County in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be denominational, a state, or county, or municipal institution, or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description, conducted or carried on within Bibb County, an amount equal to one percent (1%) of the gross receipts of any such business.

(3) Upon every person, firm or corporation engaged or continuing within Bibb County in the business of selling at retail machines used in mining, quarrying, compounding, processing and

manufacturing of personal property, an amount equal to one-fourth of one percent ($\frac{1}{4}$ of 1%) of the gross proceeds of the sale of such machines; provided, that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(4) Upon every person, firm or corporation engaged or continuing within Bibb County in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto, an amount equal to one-fourth of one percent ($\frac{1}{4}$ of 1%) of the gross receipts of sale of said automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies; provided, that where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(5) Upon every business, firm or corporation engaged or continuing within Bibb County in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to one percent (1%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of such business.

(b) There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section the gross receipts of any business and the gross proceeds of all sales which are exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

Section 3. The tax authorized to be levied in Section 2, subsection (a) of this act, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. All tax levied pursuant to this act shall be paid to and collected by the state department of revenue at the same time and along with the collection of the state sales tax. On or prior to the due dates of the tax levied pursuant to this act, each person subject to such tax shall file with the state department of revenue a report in such form as may be prescribed by the said

department, setting forth, with respect to all sales and business that are provided in Section 2, subsection (a) hereof to be used as a measurement of the tax authorized to be levied in said Section 2, subsection (a); provided, however, that said report shall include also such other items of information pertinent to the said tax in the amount thereof as the state department of revenue may require. Any person subject to the tax authorized to be levied in Section 2 hereof may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the chairman of the governing body of Bibb County, or his designated agent, at reasonable times during business hours.

Section 4. Each person engaging or continuing within Bibb County in a business subject to the tax authorized to be levied in Section 2 of this act shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said tax. It shall be unlawful for any person subject to the said tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

Section 5. The said tax shall constitute a debt due Bibb County and may be collected by civil suit, in addition to all other methods provided by law and in this act. The said tax, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to the enforcement of liens for license taxes due this state shall apply fully to the collection of the tax herein authorized to be levied, and the state department of revenue, for the use and benefit of Bibb County, shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the said department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax authorized to be levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the said department shall pay said

special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it for Bibb County.

Section 6. All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, including discounts to licensees, making of monthly reports and keeping and preserving records with respect thereto, interest after due date of tax, penalties for failure to pay tax, make reports or otherwise comply with the state sales tax statutes, the promulgation of rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax authorized to be levied in Section 2 hereof shall apply to the said tax. The state commissioner of revenue and the state department of revenue shall have and exercise all of the same powers, duties and obligations with respect to the said tax that are imposed on the commissioner and the department, respectively, by the state sales tax statutes. All provisions of the state sales tax statutes that are made applicable in this act to the tax herein authorized to be levied and to the administration of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 7. The state department of revenue shall charge Bibb County for collecting the special tax herein authorized to be levied, which charge shall not exceed five percent of the amount collected. Such charge may be deducted once each month from the special tax collected before certifying the amount of the tax due Bibb County. The state commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax moneys are received by the state department of revenue; and on or before the tenth day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder), the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Bibb County during the month immediately preceding the making of such certificate; provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Bibb County during each month, the commissioner may deduct from the tax collected in said month the charges due the department for the collection of the tax. It shall be the duty of the comptroller to issue his warrant each month payable to Bibb County in an amount equal to the amount so certified by the state commissioner of revenue as having been collected for the use of Bibb County and paid into the state treasury.

Section 8. Proceeds received by Bibb County from the tax herein authorized to be levied shall be used as follows:

- (1) During the first twelve months of the collection of the tax,

a. sixty-two and one-half percent (62.5%) shall be used to pay the costs of acquiring and providing real property, and utilities services in connection therewith, for use by the state of Alabama in the event the said state should construct a prison or correctional facility in Bibb County and to provide for the promotion of agriculture, industrial park development, industry and manufacturing in Bibb County, all as may be directed by the governing body of Bibb County;

b. twelve and one-half percent (12.5%) shall be used to pay the costs of acquiring a vote counter and such other items of equipment and machinery as may be directed by the governing body of Bibb County; and

c. twenty-five percent (25%) shall be paid into the general fund of Bibb County; and

(2) From and after the thirteenth month of collection of the said tax,

a. seventy percent (70%) shall be paid into the general fund of Bibb County.

b. fourteen percent (14%) shall be used to provide fire protection services in Bibb County, as may be directed by the governing body of Bibb County;

c. ten percent (10%) shall be used to provide for the promotion of agriculture, industry and manufacturing in Bibb County, all as may be directed by the governing body of Bibb County.

d. one percent (1%) to the rescue and medical squads;

e. two percent (2%) to the public library;

f. two percent (2%) to the public parks; and

g. one percent (1%) to the airport authority.

Section 9. All laws or parts of laws which conflict with this act are hereby repealed.

Section 10. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. This act shall become effective on October 1, 1991.

Approved July 29, 1991

Time: 5:51 P.M.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the Town of Leesburg, in Cherokee County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of said town, all territory now within such corporate limits, and also other territories in Cherokee County, Alabama, described as follows:

TRACT ONE

All that part of Section 16, Township 10 South, Range 8 East, that lies North of U.S. Highway #411.

TRACT TWO

The South Half and the South Half of the North Half of Section 9, Township 10 South, Range 8 East.

TRACT THREE

All that part of Section 15, Township 10 South, Range 8 East that lies North of U.S. Highway #411

TRACT FOUR

All that part of Section 10, Township 10 South, Range 8 East that lies North of U.S. Highway #411, less and except the North-east Quarter of the Southeast Quarter of said Section, Township and Range.

TRACT FIVE

The South half and the East Half of the Northeast Quarter of Section 3, Township 10 South, Range 8 East.

TRACT SIX

Section 2, Township 10 South, Range 8 East, less and except a strip of land 600 feet in width, and being 300 feet evenly on each side of the centerline of the right-of-way of Alabama Highway #68 as the same extends through said Section, Township and Range, and less and except a strip of land 600 feet in width, and being 300 feet evenly on each side of the centerline of the right-of-way of Alabama Highway #273, as the same extends through said Section, Township and Range.

TRACT SEVEN

All that part of the South Half of Section 35, Township 9 South, Range 8 East that lies East of Alabama Highway #35.

TRACT EIGHT

The Southwest Quarter of Section 36, Township 9 South, Range 8 East.

TRACT NINE

The West Half of Section 1, Township 10 South, Range 8 East.

TRACT TEN

All that part of the Northwest Quarter of Section 12, Township 10 South, Range 8 East that lies North of Coosa River.

TRACT ELEVEN

A plat of land containing 10 acres, more or less, in the north-west corner of the Southeast Quarter of the Southeast Quarter of Section 11, Township 10 South, Range 8 East, Huntsville Meridian, more particularly described as follows:

Beginning at the southeast corner of Section 11, Township 10 South, Range 8 East, Huntsville Meridian, thence south 89 degrees 26 minutes West 1316.28 feet to a point on the south line of Section 11, thence north 4 degrees 05 minutes east 387.85 feet to a point, which hereinafter shall be referred to as the point of beginning. This point being on the east edge of the county road right-of-way, said road being the paved road from Leesburg to Livingston School.

Beginning at the point of beginning, thence along the county road right-of-way north 0 degrees 18 minutes east 635.12 feet, thence north 2 degrees 06 minutes west 100.03 feet, thence north 5 degrees 50 minutes west 100.01 feet, thence north 9 degrees 57 minutes west 100.00 feet, thence leaving county road right-of-way north 89 degrees 27 minutes east 961.00 feet, thence south 44 degrees 44 minutes west 1326.36 feet to the point of beginning.

The above described plat of land in Tract Eleven contains 10 acres, more or less.

Also, the Southwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of Section 11, Township 10 South, Range 8 East.

TRACT TWELVE

The West Half of the West Half and the Northeast Quarter of the Northwest Quarter of Section 14, Township 10 South, Range 8 East.

EXCEPTIONS AND RESERVATIONS

There is reserved and excepted from the lands described in Tracts One through Twelve, both inclusive, any portion of said lands which may lie up to and below that certain datum plane of 565 feet above mean sea level as established by the United States Coast and Geodetic Survey as adjusted in January, 1955.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:52 P.M.

Act No. 91-516

H. 1052 — Rep. Hogan

AN ACT

Relating to Walker County; providing further for the compensation of the members of the board of registrars.

Be It Enacted by the Legislature of Alabama:

Section 1. In Walker County, each member of the board of registrars shall receive an additional ten dollars (\$10.00) per day for each meeting attended. Said compensation shall be in addition to any and all other salary, compensation or expense allowance heretofore payable by law and shall be payable out of the general fund of the county.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:52 P.M.

Act No. 91-517

H. 1056 — Rep. Drake

AN ACT

Relating to Cullman County; to amend Section 1 of Act No. 1247, H. 1642, Regular Session 1971 (Acts 1971, p. 2147), relating to the issuance of pistol permits so as to increase the fee therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 1247, H. 1642, Regular Session 1971 (Acts 1971, p. 2147), is hereby amended to read as follows:

"Section 1. The fee for the issuance of a permit in Cullman County to carry a pistol concealed on or about the person or in a vehicle as provided in Section 13A-11-75, Code of Alabama 1975, shall be fifteen dollars (\$15.00), which shall be collected by the sheriff."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:53 P.M.

Act No. 91-518

H. 1057 — Rep. Morrow

AN ACT

Pertaining to Franklin County only; to permit a referendum of the voters regarding a temporary one cent sales tax for the benefit of the public schools so as to continue to ensure students with an uninterrupted quality instructional program, and to avoid further damage to public education due to proration; also, to set an ending date of temporary sales tax, division of proceeds, reinstatement of personnel; to void this proposed sales tax if state revenues become available; and to provide for and establish a date for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. An additional one cent sales tax is hereby established for Franklin County and all political subdivisions therein to be used exclusively for the benefit of the public schools of Franklin County and the City of Russellville. This one cent sales tax shall be put in effect upon approval of the qualified voters in Franklin County.

Section 2. Should voters approve of the sales tax as provided in Section 1 of this act, the division of the proceeds of said tax shall be divided between the Franklin County and Russellville city school systems according to the most recent current expense ratio as determined by the State Department of Education.

Section 3. Those personnel positions of the Franklin County and Russellville city boards of education that were lost due to a reduction in force caused by financial shortages shall be reinstated if the voters approve the increase in revenues as provided in Section 1 of this act. Said units shall be reinstated as soon as practical for the 1991-1992 scholastic year.

Section 4. Should the state legislature provide additional revenues for the public schools of this state which will replace those funds lost due to the proration of funds in the Alabama Special Educational Trust Fund, then and only then shall this act become null and void; however, to the extent that additional new state revenues shall fully replace those funds in Franklin County and Russellville city systems, the additional one cent sales tax of Section 1 of this act shall not take effect but shall cease immediately.

Section 5. The cost of the special referendum as provided in Section 6 of this act shall be borne from the revenues collected from the one cent sales tax. Should the referendum not be approved by the voters, the Franklin County and Russellville city boards of education shall bear the cost of the referendum, and said cost shall be apportioned as follows: Same as in Section 2.

Section 6. An election upon the proposed one cent sales tax shall be held on August 20, 1991.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law. Should the voters of Franklin County approve the imposition of the tax as provided in Section 1 of this act, its imposition shall take effect on September 1, 1991, and shall continue no later than December 31, 1992, at which time said tax shall cease to exist.

Section 8. All laws or parts of laws which conflict with this act are hereby repealed.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Approved July 29, 1991

Time: 5:54 P.M.

Act No. 91-519

H. 1059 — Rep. Willis

AN ACT

Relating to Calhoun County; on and after the effective date of this act, subject to his or her having made a timely election, in writing, each commissioner of the Calhoun County commission shall be entitled to either have an automobile

furnished by Calhoun County, and payment or reimbursement for fuel and oil, and repairs of said automobile, for use in carrying out his official duties as a commissioner, or a certain expense allowance in lieu of use of an automobile and payment or reimbursement for fuel, oil and repairs therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Calhoun County.

Section 2. (a) Each commissioner of the Calhoun County commission shall have the option of electing, as hereinafter provided in subsection (b) of this section, to have an automobile furnished by Calhoun County, for use in carrying out his official duties as a commissioner, and payment for or reimbursement for fuel and oil for and repairs of said automobile, or in lieu of said automobile and expenses therefor, to have a travel expense allowance of four hundred dollars (\$400.00) per month.

(b)(1) Each incumbent Calhoun County commissioner shall inform the administrator/treasurer of the Calhoun County commission in writing within thirty days of this act becoming effective as provided in Section 5 hereof, whether he elects to be furnished an automobile and expenses therefor, or a travel expense allowance as provided in subsection (a) of this section, during his remaining term in office as a commissioner.

(2) Each incumbent Calhoun County commissioner and each newly elected Calhoun County commissioner shall, within sixty days after his election to a new term in office or a term in office, inform the administrator/treasurer of the Calhoun County commission in writing whether he elects to be furnished an automobile and expenses therefor, or a travel expense allowance as provided in subsection (a) of this section, during his next or upcoming term in office as a commissioner .

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:55 P.M.

H. 1060 — Rep. Willis

Relating to Calhoun County; to provide for the salaries of certain officials and the sheriff of the county to become effective upon the expiration of the present terms of office of the incumbent officeholders, and to provide an expense allowance for certain officials which will terminate upon the expiration of their present terms of office.

Section 1. This act shall apply only to Calhoun County.

Sheriff	\$52,500.00
---------	-------------

License Commissioner 50,000.00

Section 3. (a) After expiration of the present terms of office held by the incumbent officeholders named hereinbelow, such county officials shall receive the following annual salaries, payable in equal installments per pay period from the general fund of the county for the fiscal year beginning October 1, 1991:

Tax Assessor	\$46,250.00
--------------	-------------

Tax Collector	46,250.00
---------------	-----------

(b) After expiration of the present terms of office held by the incumbent officeholders of Calhoun County named hereinbelow, such county officials shall receive the following annual salaries, payable in equal installments per pay period from the general fund of the county for the fiscal year beginning October 1, 1992:

Tax Assessor	\$50,000.00
--------------	-------------

Tax Collector	50,000.00
---------------	-----------

(c) The salaries herein provided, when they become effective, shall be subject to retirement withholding, and shall be the total compensation payable to said officials in lieu of any salary, expense allowance or other compensation provided by law.

Section 4. (a) The sheriff and license commissioner of Calhoun County shall receive in addition to any other compensation,

fees and expense allowances provided by a law or laws in effect June 1, 1991, an expense allowance for the fiscal year of Calhoun County beginning October 1, 1991, in equal installments per pay period as follows:

Sheriff	\$ 7,500.00
License commissioner	11,250.00

(b) The sheriff and license commissioner of Calhoun County shall receive in addition to any other compensation, fees and expense allowances provided by a law or laws in effect June 1, 1991, an expense allowance for the fiscal year of Calhoun County beginning October 1, 1992, and each year thereafter in equal installments per pay period until terminated as otherwise herein provided, as follows:

Sheriff	\$15,000.00
License commissioner	15,000.00

The expense allowances herein provided shall be payable in equal installments per pay period from the county treasury and shall automatically terminate upon the expiration of the current term of office of the incumbent officers provided for in this section notwithstanding that said termination may occur before the end of the fiscal year of Calhoun County.

Section 6. (a) Anything in this act and any other act or provision of the law to the contrary notwithstanding, this act shall not cause or require the combined or total amount of salary, expense allowance or other compensation for the following officials and the sheriff of Calhoun County to exceed the amounts shown in the following table for the fiscal years of Calhoun County shown and in each year thereafter unless this act is expressly repealed:

	October 1, 1991	October 1, 1992
Sheriff	\$45,000.00	\$52,500.00
Tax assessor	46,250.00	50,000.00
Tax collector	46,250.00	50,000.00
License commissioner	46,250.00	50,000.00

(b) Should any act or statute provide for an additional salary supplement, expense allowance or other addition to compensation which would increase the combined or total amount of salary, expense allowance or other compensation above the amounts provided in subsection (a) of this section, the amounts of salary, salary supplement and expense allowances provided for in this act shall be reduced by the amount said act or statute increases the

combined or total amount of salary, expense allowance or other compensation above the amounts shown in subsection (a) of this section.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:56 P.M.

Act No. 91-521

H. 1061 — Reps. McMillan, Penry

AN ACT

Repealing Act No. 83-545, H. 132 of the 1983 Regular Session (Acts 1983, p. 844) entitled "To authorize the Baldwin County Commission to provide for the protection of forests from fire, insect, disease, beavers, and other pests within the county and to assess the whole or a part of the cost thereof, within a prescribed limit, against forest lands in the county; and to prescribe the procedure for levying and collecting such assessments."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 83-545, H. 132 of the 1983 Regular Session (Acts 1983, p. 844) is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:57 P.M.

Act No. 91-522

H. 1062 — Reps. Haynes, Johnson

AN ACT

Relating to Talladega County; providing for the mode of construction, maintenance and repair of public roads, highways, bridges and ferries under the county unit system; authorizing and requiring the county commission to employ and regulate the

compensation of a county engineer; providing for the manner of selecting said engineer; prescribing his qualifications and requiring bond; defining his authority, powers and duties and those of the county commission in relation to the roads, bridges and ferries of Talladega County; providing for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The Talladega County Commission shall employ a county engineer who shall be a thoroughly qualified and competent civil engineer possessing all of the qualifications as specified for county engineers under the general laws of the State of Alabama, who shall devote his entire time and attention to the maintenance and construction of the Talladega County public roads, highways, bridges and ferries; and who shall reside in Talladega County during his employment.

Section 2. The county engineer shall be appointed by the county commission from a nomination made by the state highway director. If said nomination is not acceptable to the county commission, the state highway director shall be requested to make additional nominations. Should the state highway director refuse or fail to make nominations within 60 days after the passage and approval of this act or upon this act otherwise becoming a law, the county commission may fill the position of county engineer with any person who has the qualifications herein set out.

Section 3. It shall be the duty of the county engineer: (a) to employ, supervise and direct all such assistants as are necessary to maintain and construct the public roads, highways, bridges and ferries of the county, to have authority to prescribe their duties, and to discharge said employees for cause or when not needed; (b) to perform such engineering and surveying service as may be required and to prepare and maintain the necessary maps and records; (c) to maintain the necessary accounting records to reflect the cost of the county highway system; (d) to build, construct new roads or change old roads, but only when ordered to do so by proper order of the county commission; and (e) to construct and maintain all paved and unpaved county roads on the basis of the county as a unit without regard to any district or beat lines.

Section 4. The county engineer is hereby designated as the person authorized to make written requisition upon the duly designated purchasing agent for all articles, materials, supplies and equipment necessary for the maintenance and construction of roads, highways, bridges and ferries in the county.

Section 5. It shall be the duty of the county commission to fix from time to time, in accordance with prevailing economic conditions, the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of roads, highways,

bridges and ferries; and said wage or salary scale shall not be exceeded by said engineer in the employment of labor and assistants.

Section 6. The county commission shall fix the amount of the salary of the county engineer payable from the road and highway funds of the county.

Section 7. Before entering upon his duties, the county engineer shall make and enter into a surety bond in the amount of five thousand dollars (\$5,000.00) payable to the county conditioned for the faithful discharge and performance of his duties as such engineer, and for the faithful accounting of all monies or property of the county, which may come into his possession or custody. The bond shall be executed by a surety company authorized and qualified to do business in Alabama and be approved by the county commission. The premiums thereon shall be paid by the county.

Section 8. The county commission shall furnish the county engineer with an office at the courthouse or elsewhere at the county seat, all necessary office supplies, and with necessary transportation in connection with his duties under this act.

Section 9. The county engineer shall be the custodian of all road tools, machinery, supplies and equipment of the county, and he shall be accountable for the same at all times. The county commission shall furnish the necessary storage facilities in which to keep said tools, machinery, supplies and equipment; and the county engineer shall keep on file in his office, at all times, an up-to-date inventory containing a list of all said tools, machinery, equipment and supplies belonging to the county.

Section 10. The authority of the county engineer shall be limited to the expenditure of such funds for the purpose of construction, maintenance or repair of public roads, highways, bridges and ferries of the county as may be set aside and appropriated by the county commission. It shall be the duty of the county commission at some meeting in September of each calendar year, or not later than the first meeting in October, to fix and determine the amount of funds which will be available for the purpose of building, maintaining and constructing public roads, highways, bridges and ferries of the county for the current fiscal year. Provided, however, the county commission is authorized, from time to time, to increase the amount so allowed to be expended by the county engineer, when such authorization will not conflict with provisions of the general law under the budget act, Title 11, chapter 8 of the Code of Alabama 1975. Provided further, that if such funds are presently available and have not heretofore been set aside by the present Talladega County Commission, immediately upon the passage and

approval of this act, it shall be the duty of the county commission to set aside a sufficient portion of said funds for the maintenance of said roads, highways, bridges and ferries until the meeting in September or October.

Section 11. The county engineer shall make written requisitions to the duly designated purchasing agent for all materials, machinery, equipment and necessary supplies needed for the construction, maintenance or repair of the public roads, highways, bridges and ferries of the county. It shall be the duty of the county engineer to inspect all materials, machinery, equipment and supplies purchased by the county for use on public roads, bridges and ferries when the same are delivered, and the same shall not be accepted and paid for without first having been approved by him.

Section 12. All the duties imposed on the chairman and members of the commission by this act are mandatory and all the limitations and restrictions imposed on them shall be strictly construed.

Section 13. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 14. All laws or parts of laws which conflict with this act are hereby repealed.

Section 15. This act shall become effective immediately after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:58 P.M.

Act No. 91-523

H. 1063 — Reps. Haynes, Johnson

AN ACT

To authorize the city council of the City of Talladega, Alabama, acting pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, to increase the rate at which there is levied and collected by the City of Talladega, on all taxable property situated within the City of Talladega, the special ad valorem tax which is authorized in Amendment No. 13 to the Constitution, to a maximum rate, for any tax year of the city, which is equal to \$2.20 on each one hundred dollars (22 mills on each dollar) of assessed value.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words and phrases used in this act, and others evidently intended as the equivalent thereof, shall, in

the absence of a clear implication herein otherwise, be given the following respective interpretations herein:

(a) "Amendment No. 13" means that certain amendment to the Constitution that was proposed by Acts 1921, page 65 enacted at the 1921 Regular Session of the Legislature of Alabama.

(b) "Amendment No. 373" means that certain amendment to the Constitution that was proposed by Act No. 6 enacted at the 1978 Second Special Session of the Legislature of Alabama.

(c) "City" means the City of Talladega, Alabama.

(d) "Council" means the City Council of the city or other governing body of the city.

(e) "Constitution" means the Constitution of Alabama of 1901.

(f) "Special Tax" means the special ad valorem tax that is authorized in Amendment No. 13, to be levied and collected on taxable property in the City.

Section 2. The city is presently authorized to levy and collect the Special Tax at a rate of \$1.00 on each one hundred dollars (10 mills on each dollar) of assessed value pursuant to Amendment No. 13. Pursuant to a resolution adopted by the council in accordance with the provisions of Amendment No. 373, the city proposes to increase the rate at which the city is authorized to levy and collect the Special Tax to a maximum rate, for any tax year, which is equal to \$2.20 on each one hundred dollars (22 mills on each dollar) of assessed value.

Section 3. Pursuant to subsection (f) of Amendment No. 373, the council is hereby authorized to increase the rate at which the city is authorized to levy and collect the Special Tax to a maximum rate, for any tax year, which is equal to \$2.20 on each one hundred dollars (22 mills on each dollar) of assessed value. The revenues from the increase in said tax, which increase is in the amount of 12 mills on each dollar of taxable property.

Section 4. The increase in the rate at which the Special Tax may be levied and collected pursuant to this act is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 5:59 P.M.

Act No. 91-524

H. 1064 — Reps. Knight, Hill

AN ACT

To provide that the Shelby County Commission may provide office space for a Constituency Office to assist the members of the Shelby County Delegation to the Legislature in serving their constituents.

Be It Enacted by the Legislature of Alabama:

Section 1. The Shelby County Commission is hereby authorized and empowered to provide space for a Constituency Office to assist the members of the Shelby County Legislative Delegation in serving their county constituents.

Section 2. The Constituency Office may be operated on a full-time or a part-time basis, as may be feasible and appropriate.

Section 3. The Shelby County Commission is authorized and empowered to make all reasonable expenditures necessary to carry out the provisions of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:00 P.M.

Act No. 91-525

H. 1066 — Rep. Newton (C)

AN ACT

Relating to Crenshaw County, amending Act No. 89-486, H. 865, 1989 Regular Session, which levied a sales and use tax, so as to provide further for the distribution of the proceeds from the tax.

Be It Enacted by the Legislature of Alabama:

Section 1. In Crenshaw County, Section 7 of Act No. 89-486, H. 865, 1989 Regular Session, is hereby amended to read as follows:

“Section 7. The state department of revenue shall charge Crenshaw County for collecting the special county tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Crenshaw County Commission, but such charge shall not, in any event, exceed ten percent of the total amount of the special county tax collected in

said county under this act. Such charge for collecting such special tax may be deducted each month from the gross revenues from such special tax before certification of the amount of the proceeds thereof due Crenshaw County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Crenshaw County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Crenshaw County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Crenshaw County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. He shall then deliver to the Crenshaw County Commission the balance remaining. All revenues arising from the taxes herein levied shall be distributed by the Crenshaw County Commission as follows:

“(1) Twenty percent of the net proceeds collected within each individual municipality in the county shall be distributed to the municipality within which it was collected;

“(2) Ten percent of the total net proceeds shall be distributed to the rural fire departments and rescue squads in the county;

“(3) Thirty percent of the total net proceeds shall be deposited in a reserve fund in the county general fund to accumulate through September 30, 1995. No disbursement shall be made from the principal of this reserve fund prior to October 1, 1991; interest, however, from such fund may be used prior to that time. On September 30, 1991, September 30, 1993, and September 30, 1995, sixty percent of the monies in the reserve fund shall be appropriated to the Industrial Development Board to be used for industrial development in the county and forty percent shall be deposited in the general fund of the county for industrial development uses. After October 1995, the thirty percent of the total net proceeds provided for in this subsection shall be distributed to the general fund of the county; and

“(4) The remainder of the total net proceeds shall be deposited in the county general fund.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:01 P.M.

Act No. 91-526

H. 1069 — Reps. Hill, Knight

AN ACT

Relating to Shelby County; providing further for the compensation of the circuit clerk of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Shelby County Commission is authorized at its discretion to provide an expense allowance or supplement to the circuit clerk of the county in an amount not to exceed 75 percent of any supplement now or hereafter paid by said county to a circuit judge. Said amount shall be in lieu of any other annual supplement or expense allowance currently paid by the county to the clerk.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:02 P.M.

Act No. 91-527

H. 1074 — Reps. Hill, Knight

AN ACT

To alter, rearrange and extend the boundary lines of the City of Calera in Shelby County, subject to referendum approval by a majority of the qualified electors residing within the territory proposed to be annexed to said city.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Calera in Shelby County are hereby altered, rearranged

and extended so as to included in the corporate limits of said municipality the following territory to wit:

Commence at the intersection of the East line of Section 16, Township 22 South, Range 2 West, Shelby County, Alabama and the North boundary of the Calera City Limits, said point being the Point of Beginning of the City Limits extension herein described; thence run west along said City Limit boundary 5280 feet more or less to the West boundary line of said Section 16; thence run north 2600 feet more or less to the Northwest corner of said Section 16; thence run east along said section line 630 feet more or less; thence 92 degrees left more or less 1340 feet more or less; thence 92 degrees right more or less and run east 1470 feet more or less to an intersection with the West Right-of-Way Line of an L & N Railway; thence run northwesterly with the West Right-of-Way of said L & N Railway and its offsets 220 feet more or less; thence 90 degrees right 25 feet; thence 90 degrees left 1120 feet more or less; thence east along the half section-line of Section 9 - 560 feet more or less; thence 90 degrees left more or less 1320 feet more or less; thence 90 degrees right more or less 450 feet more or less to the West Right-of-Way of U.S. Highway 311; thence 85 degrees left more or less 290 feet more or less along said Highway 31 R.O.W.; thence 85 degrees left more or less 480 feet more or less; thence 90 degrees right more or less 810 feet more or less; thence 89 degrees left more or less 535 feet more or less; thence 89 degrees right more or less 237 feet more or less to the North section-line of said Section 9; thence 88 degrees left more or less 510 feet more or less to the West Right-of-Way of an L & N Railway; thence 81 degrees right more or less 1265 feet northwesterly along said R.O.W.; thence 90 degrees right 25 feet along said R.O.W.; thence 90 degrees left 2980 feet more or less along said R.O.W.; thence 90 degrees right 25 feet along said R.O.W.; thence 90 degrees left 790 feet more or less along said R.O.W. to the Northerly Right-of-Way of Shelby County Highway 22; thence run northwesterly along said R.O.W. 2330 feet more or less to the intersection with the East Right-of-Way of U.S. Highway 31; thence continue northeasterly and easterly along said Highway 22 Right-of-Way 2560 feet more or less to the East Section line of Section 33, Township 21 South, Range 2 West; thence leaving said Highway 22 R.O.W., run south along said East section line of Section 33, 1150 feet more or less to the Northeast corner of Section 4, Township 22 South, Range 2 West; thence continue south along said Section 4 section - line 2640 feet more or less to the half section-line of Section 3; thence run east along said Section 3 half section-line 1300 feet more or less; thence 90 degrees right more or less 2640 feet more or less to the South section-line of said Section 3; thence continue south along East line of the West half of the West half of Section 10, 3960 feet more or less to the Southeast

corner of the Northwest Quarter of the Southwest Quarter of said Section 10; thence 90 degrees right more or less 535 feet more or less to the East Right-of-Way of Interstate 65; thence 55 degrees left more or less 80 feet more or less along said I-65 R.O.W.; thence 45 degrees left more or less 1250 feet more or less to the South line of Section 10; thence 84 degrees left more or less 440 feet along said Section 10 section-line to the Northeast corner of the West half of the Northwest Quarter of Section 15; thence 90 degrees right more or less along the East line of said West half of said Northwest Quarter 2540 feet more or less to the North line of the Calera City Limits; thence 90 degrees right more or less 1320 feet more or less along said City Limits to the West line of Section 15, Township 22 South, Range 2 West, said point being the Point of Beginning.

Section 2. The provisions of Section 1 of this act shall become operative only if approved by the qualified electors who reside within the territory above described, voting in a referendum election to be ordered by the probate judge of Shelby County, within 10 days of the filing of the enactment of this legislation with the judge of probate, such election to be held not less than 20 nor more than 40 days from the date of the order of the election by the probate judge of Shelby County. The election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article 3, Chapter 42, Title 11, Code of Alabama 1975, insofar as such provisions may be appropriate. The question shall be substantially as follows: "Do you favor the adoption of Section 1 of Act No. ____ of the 1991 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the City of Calera in Shelby County? Yes ____ No ____." The City of Calera shall pay all of the costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes," the provisions of Section 1 of this act shall become operative immediately. If the majority are "No," Section 1 of this act shall have no further effect.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:03 P.M.

Act No. 91-528

H. 1075 — Reps. Hill, Knight

AN ACT

To alter, rearrange and extend the boundary lines of the City of Calera in Shelby County, subject to referendum approval by a majority of the qualified electors residing within the territory proposed to be annexed to said city.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Calera in Shelby County are hereby altered, rearranged and extended so as to included in the corporate limits of said municipality the following territory to wit:

Commence at the Northeast corner of Section 6, Township 24 North, Range 14 East, Shelby County, Alabama; thence run south along the East section-line of said Section 6 to the Southeast corner of Section 6, also being the Northeast corner of Section 7; thence run south along the East section-line of said Section 7 to the Southeast corner of Section 7; thence run west along the South section-line of said Section 7, also being the Southeast corner of Section 12, Township 24 North, Range 13 East; thence continue west along said section-line of Section 12, 3100 feet more or less to the West Right-of-Way of Interstate 65; thence 70 degrees right more or less 900 feet more or less northwesterly with said I-65 R.O.W.; thence 30 degrees right more or less 70 feet more or less with said I-65 R.O.W.; thence 30 degrees left more or less 1300 feet more or less with said I-65 R.O.W.; thence 30 degrees left more or less 120 feet more or less with said I-65 R.O.W.; thence 25 degrees right more or less 1150 feet more or less with said I-65 R.O.W.; thence 25 degrees right 200 feet more or less with said I-65 R.O.W.; thence 25 degrees left more or less 780 feet more or less with said I-65 R.O.W.; thence 14 degrees right more or less 100 feet more or less with said I-65 R.O.W.; thence 14 degrees left more or less 1065 feet more or less to an intersection with the Southerly Right-of-Way of Shelby County Highway 67; thence 115 degrees left more or less 100 feet more or less along said Highway 67 R.O.W. to the South line of Section 1; thence 45 degrees right more or less 350 feet more or less along said South Section-line to the Southwest corner of Section 1; thence run north along the West section-line of Section 1 3720 feet more or less to the South Right-of-Way of an L & N Railway; thence run west along said L & N R.O.W. 568 feet more or less; thence 94 degrees right more or less across the 100 foot wide L & N R.O.W., a distance of 102 feet more or less to the South line of the Calera City Limits also being along the North R.O.W. of the L & N Railway; thence run east along said L & N R.O.W. to the West Right-of-Way of Interstate 65;

thence run northwesterly along said I-65 R.O.W. 1450 feet more or less to the North section-line of Section 2; thence run east along said North section-line to the Northeast corner of said Section 2; thence run south along the Section 2 East section-line 1320 feet more or less; thence run east following the Calera City Limits 3160 feet to the West Right-of-Way of an L & N Railway; thence run northeasterly along said West L & N R.O.W. with its meanderings to its intersection with the North section-line of Section 1, Township 24 North, Range 13 East; thence run West along said North section-line 440 feet more or less to the Southwest corner of Section 23, Township 22 South, Range 2 West; thence continuing to follow the Calera City Limits, run northeasterly 1850 feet more or less to the East line of the West half of the West half of Section 23; thence run north along said East line 260 feet more or less to the Southerly Right-of-Way of Shelby County Highway 306; thence run northwesterly with said Southerly R.O.W. and along with the City Limits 1670 feet more or less to the East section-line of Section 22; thence run west parallel to the North line of said Section 22, 770 feet more or less continuing along the City Limit line; thence 90 degrees left more or less 690 feet more or less; thence 90 degrees right more or less 680 feet more or less continuing along the City Limit line; thence 90 degrees right more or less 100 feet more or less; thence 43 degrees left more or less 200 feet more or less; thence 69 degrees left more or less 250 feet more or less; thence 50 degrees left more or less 800 feet continuing with the City Limits line; thence 35 degrees right more or less 310 feet more or less to the half section-line of Section 22; thence run north along said line 350 feet more or less; thence 155 degrees left more or less 200 feet more or less continuing with the City Limit line; thence 103 degrees right more or less 320 feet more or less; thence run south 240 feet more or less; thence 90 degrees more or less 400 feet more or less to the East Right-of-Way of Interstate 65; thence run south along said I-65 R.O.W. 1320 feet more or less to the South section-line of Section 22; thence run west along said South section-line 700 feet more or less to the East City Limit Line; thence run north along said line 2300 feet more or less; thence 90 degrees right more or less 480 feet more or less; thence run southeasterly with the meanderings of the City Limit Line 422.33 feet to the intersection of the North Right-of-Way of Alabama Highway 25 and the West Right-of-Way of Shelby County Highway 310; thence run northerly with the West R.O.W. of Highway 310 and the City Limits line 380.6 feet; thence 55 degrees right more or less 140 feet more or less to the East R.O.W. of Highway 310; thence 30 degrees right more or less 400 feet more or less; thence 98 degrees right more or less 650 feet more or less continuing to follow the City Limit line to the South Right-of-Way line of Alabama Highway 25; thence run east and northeast with the Southerly R.O.W. of Highway 25

and the City Limit line to the West line of the East half of the East half of Section 22; thence run north along said half line 700 feet to the South Right-of-Way of Shelby County Highway 310 R.O.W. and the City Limit line; thence run southwesterly 1300 feet more or less; thence south 130 feet more or less; thence west 200 feet more or less; thence run southwesterly along the City Limit line 470 feet more or less to the East Right-of-Way of Interstate 65; thence run west along the City Limit line to the East City Limit line; thence run north along said City Limit line 2850 feet more or less to its intersection with the East Right-of-Way of Interstate 65; thence 173 degrees right more or less leaving the City Limit line and following the East Right-of-Way of I-65, 1930 feet more or less to its intersection with the North Right-of-Way line of a Southern Railway; thence run east and northeasterly with said Railway R.O.W. 2450 feet more or less to the North line of Section 22; thence run east along the said North section-line 50 feet more or less to the West Right-of-Way of an unnamed County road; thence run north along said road R.O.W. 430 feet more or less; thence run west 410 feet; thence run north 420 feet; thence run east 428.8 feet; thence run north 480 feet more or less; thence run east 1790 feet more or less to the North R.O.W. of a Southern Railway; thence run northerly and easterly along said Railway R.O.W. 2250 feet more or less to the West line of Lot 16, of the Tract fifty One Subdivision as recorded in Map Book 11, Page 26; thence run north along said West line of Lot 16, 600 feet more or less; thence run east 2710 feet more or less to the East Right-of-Way of Alabama Highway 25; thence 36 degrees right more or less 520 feet more or less to the North Right-of-Way of a Southern Railway; thence run northeasterly with said Railroad R.O.W. 1610 feet more or less to the East line of the West half of the West half of Section 13; thence run south along said half-line 1000 feet more or less to the South line of the Northwest Quarter of Section 13; thence run east along said half line 2620 feet more or less; thence run south 1390 feet more or less to the South Right-of-Way of Shelby County Highway 86; thence run southwesterly 745 feet more or less; thence run southerly leaving said road R.O.W. 470 feet more or less to the Southeast corner of Lot 1, East Calera Farms as recorded in Map Book 12, Page 33; thence run southwesterly and westerly along the South line of said Lot 1 to the Southwest corner of Lot 1; thence run south to the Southwest corner of Lot 4 of East Calera Estates as recorded in Map Book 12, Page 3; thence run west 80 feet more or less to the North Right-of-Way of L & N Railway; thence run southwesterly and perpendicular to said L & N R.O.W., 100 feet to the South R.O.W. of the L & N Railway; thence run northwesterly, westerly, and southwesterly along said South L & N R.O.W. to its intersection with the West section-line of Section 24, Township 22 South, Range 2 West; thence run South along said West section-line

3170 feet more or less to the Southwest corner of Section 24; thence run east 2050 feet along the South section-line of Section 24 to the Northeast corner of Section 6, Township 24 North, Range 14 East, said point being the Point of Beginning.

Section 2. The provisions of Section 1 of this act shall become operative only if approved by the qualified electors who reside within the territory above described, voting in a referendum election to be ordered by the probate judge of Shelby County, within 10 days of the filing of the enactment of this legislation with the judge of probate, such election to be held not less than 20 nor more than 40 days from the date of the order of the election by the probate judge of Shelby County. The election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article 3, Chapter 42, Title 11, Code of Alabama 1975, insofar as such provisions may be appropriate. The question shall be substantially as follows: "Do you favor the adoption of Section 1 of Act No. ____ of the 1991 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the City of Calera in Shelby County? Yes ____ No ____ ." The City of Calera shall pay all of the costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes," the provisions of Section 1 of this act shall become operative immediately. If the majority are "No," Section 1 of this act shall have no further effect.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:04 P.M.

Act No. 91-529

H. 1068 — Reps. Hill, Knight

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Wilsonville, in Shelby County, to provide for a referendum election of the qualified electors who reside within the territory proposed to be brought within the municipal limits of Wilsonville.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Wilsonville in Shelby County is hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Begin at the SW corner of Stanley Sawyer lot located in the SW 1/4 of the SE 1/4 of Section 35, Township 20 South, Range 1 East; thence run in a westerly direction along the north right-of-way line of Highway #48 until said north right-of-way intersects the west line of Shelby County Highway #431; thence run in a southerly direction along the west line of Highway #431 to the intersection of the North line of the SW 1/4 of Section 3, Township 21 South, Range 1 East; thence run in a westerly direction to the NW corner of said SW 1/4; thence run in a southerly direction along the west line of said section 3, to the south right-of-way of State Highway #25; thence run in a easterly direction along south right-of-way line to the intersection of the west right-of-way of Shelby County #7; thence run in a southerly direction along the said right-of-way line to a point being 990 feet due south and at right angles to the north line of Section 10, Township 21 South, Range 1 East; thence run in an easterly direction crossing highway #7 along said line approximately 990 feet south of the north line of said Section 10 to the east line of the NW 1/4 of the NE 1/4 of said Section 10; thence run in a northerly direction along said east line to the southwest corner of the N 1/2 of the NE 1/4 of the NE 1/4 of said Section 10; thence run easterly along said half 1/4-1/4 section to the east line of said Section 10; thence run southerly along said east line to the intersection of the centerline of Shelby County Highway #9; thence run in an northeasterly direction along the centerline of said highway #9 to the intersection with the centerline of Shelby County Highway #410 also being known as the Old Columbiana-Wilsonville Road; thence run in an easterly and southeasterly direction along the centerline of #410 to the intersection of the current Wilsonville City Limits; thence run in a northerly direction along the existing city limits to the intersection of the north right-of-way Shelby County #48; thence run westerly along the north right-of-way of said road #48 to the point of beginning.

Section 2. The substantive provisions of this act shall become operative only if the act is approved by the qualified electors who reside within the territory above described voting in a referendum election to be held on the day designated by the probate judge of Shelby County, not less than 20 nor more than 40 days from the date of the enactment of this legislation. The notice of the election shall be given by the probate judge of Shelby County, and

the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Section 11-41-6, Code of Alabama 1975, insofar as such provisions may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge, nor need a plat or map of the territory to be annexed be file with the probate judge. The question shall be the adoption of Act. No. ____ , H.B. ____ , of the 1991 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the Town of Wilsonville in Shelby County. The Town of Wilsonville shall pay all of the costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes," the provisions of this act shall become operative immediately. If the majority are "No," this act shall have no further effect.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:05 P.M.

Act No. 91-530

H. 1071 — Rep. Hill

AN ACT

Relating to Shelby County, Alabama; to provide for the creation, maintenance and regulation of public corporations for the purpose of forming units for preventing and fighting fires and providing emergency services to sustain life, health and property, and to prescribe conditions and regulations relative to the creation of such public corporations; to prescribe the organizational structure, rights and powers of such public corporations; to prescribe certain limitations on the rights and powers of such public corporations and to provide for elections on questions of formation, indebtedness and financial support of such corporations.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Shelby County, Alabama.

Section 2. As used in this act, the following words and terms shall have meanings ascribed to them as follows, unless a contrary meaning is apparent from the context:

(1) "The county" shall mean Shelby County, Alabama;

(2) "Public corporation for fighting and preventing fires" shall mean the cooperative effort of the citizens of a defined geographical area for establishing, operating and maintaining a system for

fighting and/or preventing fires as specifically prayed for in their petition to form such public corporation; and

(3) "Public corporation for emergency service" shall mean the cooperative effort of the citizens of a defined geographical area for providing, operating and maintaining such services as rescue, emergency medical service, ambulance service or any other emergency service necessary to sustain life, health or property which service shall be limited only to such services as specifically prayed for in their petition to form such public corporation.

Section 3. Any defined geographical area situated entirely within the county may be established as either a public corporation for fighting and preventing fires or as a public corporation for emergency service in the manner hereinafter prescribed in this act; provided, however, no territory lying within the boundaries of a municipality or any firefighting and/or emergency medical services area or district in existence on the effective date of this act shall be included in any petition for formation of a public corporation under this act.

Section 4. (a) Upon any petition for formation of a public corporation, as hereinafter provided for, being filed in the office of the judge of probate of the county, said judge shall order an election to be held within the boundaries of the defined geographical area on the question or questions on which such petition requests an election.

(b) Such petition shall be signed by at least thirty (30) percent of the qualified electors residing within the boundaries of the proposed public corporation.

(c) Such petition shall contain a legal description of the geographical boundaries of the area in which the proposed public corporation is to be established under the provisions of this act; such petition shall stipulate in detail the types of services proposed to be rendered by the public corporation; such petition shall request the judge of probate to call an election on one or more of the following questions: "Shall there be created for the (defined) area a public corporation for fighting and preventing fires?"; "Shall there be created for the (defined) area a public corporation for providing (description of emergency service) service?"; "Shall there be created for the (defined) area a public corporation for fighting and preventing fires, and providing (description of emergency service) service?". Such petition shall name the governmental agency and/or governmental entity that shall appoint from the electorate of the affected geographical area an executive committee of five persons to serve in such capacity as prescribed in Section 11 of this act.

(d) Such petition shall state the official name of the proposed public corporation. Thereafter the governing board of such corporation

may change such official name by filing in the office of the judge of probate a copy of a resolution passed by such public corporation's directors changing the name thereof.

(e) Such petition for an election on the establishment of such public corporation may be accompanied by an additional petition calling for an election on the question of collecting proposed dues, service charges or fees to be used to support and maintain the corporation's services. Such additional petition shall be signed by at least thirty (30) percent of the qualified electors residing within the boundaries of the proposed public corporation. A petition for an election on the establishment of such public corporation shall be deemed to be accompanied by a petition for an election on the question of collecting proposed dues, services charges or fees, if the request for an election on the proposed public corporation and the request for an election on the proposed dues, service charges or fees are combined in a single petition.

(f) Such petition for an election on formation of such public corporation shall also name five interim trustees who shall all be qualified electors and resident owners of real properties located within the boundaries of the proposed public corporation. Such trustees shall serve as temporary directors of the public corporation until permanent directors can be elected in accordance with the provisions of Section 10 of this act. Furthermore, such petition shall also specify that one of such interim trustees shall be the temporary chairperson who may call and preside over any board meetings that may be necessary until permanent directors are elected.

Section 5. (a) When a petition for the holding of any election hereunder is filed with the judge of probate, such judge shall order the election sought by the petition to be held on a day not less than thirty nor more than forty days from the date of the receipt of such petition.

(b) The provisions of subsection (a) of this section shall apply to all elections provided for by this act, provided such an election is not prohibited by subsection (c) of this section or any other provisions of this act.

(c) Elections on questions relating to dues, service charges or fees may be held pursuant to the provisions of Section 14 of this act. Elections pertaining to the establishment of the same public corporation or portion thereof or for the abolition of a public corporation shall not be held more than once every three years. Elections for members of the public corporation's board of directors shall be held pursuant to the provisions of Section 10 of this act.

Section 6. The provisions of the appropriate election laws governing the registration of voters, equipment at polling places,

furnishing of supplies, appointment of election officers and voting and canvassing of returns shall apply to any election held pursuant to this act.

Section 7. The judge of probate shall give notice of any election to be held pursuant to this act by publishing notice of the date and issue of such election at least once a week for three consecutive weeks in a newspaper of general circulation in the territory wherein said election is to be held.

Section 8. (a) Where an election is held on the question of the establishment of the public corporation, the governing body of the county shall pay the necessary expenses of advertising and conducting such election out of the general funds of the county.

(b) After a public corporation has been established under this act, expenses of any subsequent elections held by such corporation regarding its business affairs or expansion of its service area shall be borne by such corporation if an election question is on a special election ballot.

Section 9. No public corporation shall be created unless the creation thereof was approved by a majority of the electors voting in the election at which the proposed creation question was submitted. Upon certification that the creation of the public corporation was so approved at such election, the proposed public corporation shall come into existence and shall constitute a nonprofit public corporation.

Section 10. (a) The affairs and business of the public corporation shall be managed by a board of directors consisting of no less than five members or no more than nine who shall be elected by the qualified electors of the territory to be served by the public corporation. Such election shall be held at the same time and in conjunction with the next regularly scheduled county-wide primary or general elections. Each board seat shall carry a numerical designation as assigned to it by the temporary chairperson. Nominations for candidates for designated places as members of the board of directors shall be made by petition signed by not less than twenty-five (25) persons who are qualified electors residing within the boundaries of the service area, which petition shall designate the board seat by number for which said candidate is being nominated. The fire district shall provide for and finance the costs of each board seat election. The person receiving the highest number of votes for each board seat shall be the successful candidate. Terms of directors shall normally be four years; provided, however, that in order to stagger the terms, Seat No. 1 and Seat No. 2 shall have initial terms of two years, and Seats 3, 4 and 5 shall have initial terms of four years.

(b) In the event of a vacancy on the board of directors, the same shall be filled by a majority vote of the qualified electors of the service area present at a called meeting to fill such vacancy which shall be held between 30 days and 60 days after notice of said meeting to fill such vacancy was mailed to a person at each address in the service area. Such election shall be for the unexpired term of the member causing the vacancy.

(c) The board of directors shall elect annually from its membership a president and a secretary. Such board shall publish and keep on file an annual financial statement of the corporation. The secretary shall be responsible for maintaining current and permanent minutes of all meetings and records of all business transactions. The members of the board of directors shall not be entitled to any compensation for their services but may be entitled to reimbursement for all reasonable expenses incurred by them in the performance of their duties if approval by the board of directors.

Section 11. The duties and powers of the executive committee provided for in Section 4(c) of this act shall include but not be limited to hearing appeals on any matters not resolved by the board of directors. Appellate decisions made by the executive committee shall be the final disposition of the matter in question. Also, the executive committee may at its discretion, audit or cause to be audited, the business activities of the public corporation.

Section 12. (a) The public corporation shall have the power to do any and all acts or things necessary and convenient for carrying out the purposes for which it is created including, but not limited to, the right to: sue and be sued; to have a seal and alter the same at pleasure; to acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein and to pay therefor in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as determined; to acquire, own, operate, maintain and improve a system or systems; to pledge all or any part of its revenues, or mortgages, or otherwise encumber, all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its obligations; to sell, lease, mortgage, or otherwise encumber or dispose of all or any of its property, as hereafter provided; to contract debts, borrow money and to issue or assume the payment of obligations; to receive grants, donations and gifts; to collect dues, fees or service charges as provided in this act subject to limitations prescribed in this act; to negotiate and contract with other entities that provide utility or other services to provide collection services for the public corporations dues, fees or service charges; to negotiate and enter into contracts with residents of areas outside or within the corporation's service area to provide a

specified service and to charge fees for such service; to employ agents, servants and attorneys; and to perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees or by contracts with any person, federal agency or municipality.

(b) The property and income of any public corporation provided for by this act, all bonds issued by such public corporation, the income from such bonds, conveyances by or to the public corporation, and leases, mortgages and deeds of trust by or to the public corporation shall be exempt from all taxation in the State of Alabama, including specifically the tax imposed by Section 40-21-82 of the Code of Alabama 1975. Such public corporation shall be exempt from all taxes levied by any county, municipality or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities that such public corporation may engage in. Such public corporation shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of any county in respect of its incorporation, the amendment of its certificate of incorporation, or the recording of any document. The provisions of this subsection (b) of Section 12 shall be retroactive to the date such public corporation was first established.

Section 13. The expense of establishing and maintaining a public corporation shall be paid for from the proceeds of dues, fees, service charges, gifts or other lawful means that accrue to such corporation. Payment of dues shall constitute membership in the public corporation. Any property owner (elector) who does not pay said dues, fees or charges within 30 days of the due date for such shall be treated and considered as outside the public corporation and shall not be considered for any services provided by such public corporation.

Section 14. (a) No dues, fees or service charges shall be collected unless the same has been first approved by a majority of the votes cast at an election held hereunder by the qualified electors residing within the service area, or within the proposed service area.

(b) An election on the question of collecting dues, fees or services charges in a proposed service area may be held at the same time that the election is held on the creation of the public corporation, provided that the petition for the election on the question of dues, fees or service charges accompanies the petition for the election on the establishment of the proposed public corporation as is provided for in Section 4 of this act. An election on the question of dues, fees or service charges, other than an election coincident to the creation of the public corporation, may be held upon the board of directors of the public corporation submitting to the judge of

probate a petition for such election as herein provided. The board of directors shall file in the office of the judge of probate a petition to call an election in the service area on the question of whether the dues, fees or service charges proposed by the board of directors shall be collected. This petition shall state specifically the amount proposed to be collected. The petition may request that an election be held on one or more than one proposed charge classification. Additionally, a petition submitted by the board of directors shall contain both a report that will indicate the nature and extent of any service that is proposed to be supported by all dues, fees or service charges that will be in effect if the petition is approved by the electors and a certification by the directors that the dues, fees or charges proposed, together with any dues, fees or service charges otherwise in effect, will also provide for the interest and maturities on all outstanding debt of the public corporation. Upon the petition being filed with the judge of probate, an order shall be issued for an election to be held at the next regularly scheduled county-wide election.

Section 15. (a) Such public corporation may be enlarged as hereinafter prescribed in this section, provided that any proposed new area joins the geographic boundaries of the public corporation and that no portion of such proposed new area is located within the corporate limits of any municipality at the time of such proposed enlargement.

(b) No such enlargement shall be effective unless the majority of the votes cast at the election provided for in subsection (c) of this section approve the inclusion of the proposed new area within the public corporation and also approve all dues, fees or service charges in effect within the corporation at the time of the election.

(c) The term "proposed new area" as used in this section means an area which it is proposed be brought within a public corporation by enlargement of the public corporation. When the board of directors of a public corporation determines that the inclusion of a proposed new area within the public corporation would be to the advantage of such corporation and also to the advantage of the majority of the property owners of the proposed new area, the board of directors may file in the office of the judge of probate a petition signed by two-thirds ($\frac{2}{3}$) of the property owners presently being served and by two-thirds ($\frac{2}{3}$) of the property owners proposed to be served that there be an election in the proposed new area at which there shall be submitted to the qualified electors residing within the proposed new area the question of whether the proposed new area shall be included within the public corporation, and also the question of whether the dues, fees or service charges in effect within the public corporation at the time of the election

are approved. Upon such petition being filed, such judge of probate shall order an election to be held within the proposed new area at the next regularly scheduled county-wide election, at which election the qualified electors residing within the proposed new area shall vote on the two aforementioned questions. Unless the majority of votes cast at such election vote in the affirmative on each of the foregoing questions, the proposed new area shall not be included within the public corporation. Upon certification that a majority of the votes so cast was in favor of the inclusion of the proposed new area in the public corporation and that a majority of such votes cast approved all dues, fees or service charges in effect within the public corporation at the time of such election, the proposed new area shall become a part of the public corporation.

Section 16. (a) Any public corporation created by this act may be abolished in the manner hereinafter provided for; provided, however, that no such public corporation shall not be abolished nor shall the boundaries of such public corporation be diminished in any manner so long as it has any indebtedness.

(b) Upon the petition for abolition of a public corporation conforming to the requirements as hereinafter set forth being filed with the judge of probate, an election shall be ordered on the question of abolition of the public corporation with such election to be held in the public corporation within the time frame provided for by Section 5(a) of this act at which qualified electors residing within the public corporation shall be entitled to vote. The petition shall be signed by at least thirty percent (30%) of the persons who are qualified electors residing within the boundaries of the public corporation. It shall contain a recital that the public corporation is not indebted, and it shall request the judge of probate to order an election on whether the public corporation shall be abolished. Upon the officers' canvassing the returns of the election certifying that abolition of the public corporation was approved by a majority of the votes cast at the election, the public corporation shall be abolished.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. All laws or parts of laws which conflict with this act are hereby repealed.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:06 P.M.

Act No. 91-531

H. 1072 — Reps. Knight, Hill

AN ACT

Relating to the City of Alabaster in Shelby County; authorizing an additional ad valorem tax and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. In Shelby County, pursuant to subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901, and a resolution heretofore adopted by the City of Alabaster governing body after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem tax on the taxable properties in the city. The city governing body may impose an additional ad valorem tax in the amount of seven (7) mills on each dollar of taxable property in the city. The revenues from said tax shall be paid to the general fund of the city.

Section 2. The increase in the rate of said tax as provided herein is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:07 P.M.

Act No. 91-532

H. 1073 — Reps. Hill, Knight

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Calera in Shelby County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Calera in Shelby County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

CALERA NORFOLK-SOUTHERN RAILWAY ANNEX

Commence at the Southeast Corner of Section 20, Township 22 South, Range 2 West; thence run west along the Section 22 South section-line 1405 feet more or less to the Calera City Limits West line; thence run north along said City Limit line 80 feet more or less to centerline of the 100 foot Right-of-Way herein described, said point being the Point of Beginning; thence run southwesterly with the existing Railway Centerline 2855 feet more or less to the Point of a Curve to the right with a delta angle of approximately 22 degrees right, a chord length of approximately 1280 feet; run along the arc length of the centerline approximately 1287 feet to the Point of Tangency of the curve; thence continue to run westerly 1280 feet more or less to a point 400 feet past Shelby County Highway 75, said point being the Point of Termination of the 100 foot Right-of-Way herein described along the aforementioned centerline of a Norfolk-Southern Railway.

CALERA WEST ANNEX

Commence at the Southeast Corner of Section 20, Township 22 South, Range 2 West and run west 1400 feet to the existing West boundary of the Calera City Limits; thence run north along said City Limit boundary 810 feet to the Point of Beginning of the City Limits extension herein described; thence 88 degrees left more or less and run west 690 feet more or less to the East boundary of the existing Salem Cemetery; thence 90 degrees more or less left and run south 200 feet more or less to the Southwest Right-of-Way of Shelby County Highway 63; thence 143 degrees right more or less 520 feet more or less; thence 38 degrees right more or less 540 feet more or less along the West boundary of said Salem Cemetery to the Northwest corner of said cemetery; thence 84 degrees right more or less 493 feet more or less to the Northeast corner of said cemetery; thence 96 degrees right more or less 490 feet more or less along said boundary; thence 91 degrees right more or less 160 feet more or less along said cemetery boundary; thence 91 degrees left more or less 160 feet more or less along said cemetery boundary; thence 89 degrees left more or less leaving said cemetery boundary 690 feet more or less to the West boundary of the City Limits; thence 88 degrees right more or less 130 feet more or less along said City Limits to the Point of Beginning; located in the Southeast Quarter of Section 20, Township 22 South, Range 2 West, Shelby County, Alabama.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:08 P.M.

Act No. 91-533

H. 1080 — Reps. Johnson, Haynes

AN ACT

Relating to Talladega County; to raise additional revenue by levying in those parts of the county outside the corporate limits of the cities located in Talladega County special county privilege license and excise taxes paralleling, at lower rates, state sales and use taxes; providing for the ascertainment, collection, payment, distribution and use of the proceeds from such taxes, and for the enforcement of this act by the state department of revenue and penalties for violations; and further providing for liability of county commissioners for failure to follow said act.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby levied in that part of Talladega County outside the corporate limits of the cities located in Talladega County in addition to all other taxes now imposed by law, special county privilege license and excise taxes paralleling state sales and use taxes now in effect. Said taxes are hereby levied in the manner and at the rates as hereinafter prescribed:

(1) Upon every person, firm or corporation engaged or continuing within that part of Talladega County outside the police jurisdiction of the cities located in Talladega County in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidence of debt or stocks, nor sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of over 50 tons burden), an amount equal to two percent of the gross proceeds of sales of the business except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdictions of such cities, such tax shall be levied in an amount equal to only one percent of the gross proceeds of sales of the business. Provided, however, that any person engaging or continuing a business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such businesses at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business and, when his books are not so kept, he shall pay the tax as retailer, on the gross sales of the business.

(2) Upon every person, firm or corporation engaged or continuing within that part of Talladega County outside the police jurisdiction of the cities located in Talladega County in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic

contests conducted by or under the auspices of any educational institution within such part of Talladega County, or any athletic association thereof, or other association whether such institution or association be denominational, a state, county or a municipal institution or association or a state, a county, or a city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description, conducted or carried on within such part of Talladega County, an amount equal to two percent of the gross receipts of any such business except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdiction of such cities, such tax shall be levied in an amount equal to only one percent of the gross receipts of any such business.

(3) Upon every person, firm or corporation engaged or continuing within that part of Talladega County outside the police jurisdictions of the cities located in Talladega County in the business of selling at retail machines or machinery used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to one-half of one percent of the gross proceeds of the sale of such machines except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdictions of such cities, such tax shall be levied in an amount equal to only one-fourth of one percent of the gross proceeds of sales of the business; provided, that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(4) Upon every person, firm or corporation engaged or continuing within that part of Talladega County outside the police jurisdiction of the cities located in Talladega County in the business of selling at retail any automotive vehicle or truck trailer, semitrailer, or house trailer an amount equal to one-half of one percent of the gross proceeds of the sale of said automotive vehicle or truck trailer, semitrailer or house trailer except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdictions of such cities, such tax shall be levied in an amount equal to only one-fourth of one percent of the gross proceeds of sales of the business; provided, however, where a person subject to the tax provided for in this

subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein a fee of two dollars and fifty cents per year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal, and shall run for the twelve succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less a credit for the used vehicle taken in trade.

(5) Upon every person, firm or corporation engaged or continuing within that part of Talladega County outside the police jurisdiction of the cities located in Talladega County in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements thereof which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one-half of one percent of the gross proceeds of the sale thereof except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdiction of such cities, such tax shall be levied in an amount equal to only one-fourth of one percent of the gross proceeds of sales of the business. Provided, however, the farm rates herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used

machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

(6) Upon every person, firm or corporation engaged or continuing within that part of Talladega County outside the police jurisdiction of the cities located in Talladega County in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes thereof, there is hereby levied a tax equal to two percent of the cost of such food, food products and beverages sold through such machines except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdiction of such cities, such tax shall be levied in an amount equal to only one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

(7) An excise tax is hereby imposed on:

a. The storage, use or other consumption in that part of Talladega County outside the police jurisdictions of the cities located in Talladega County of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden), purchased at retail, for storage, use or other consumption in such part of Talladega County, at the rate of two percent of the sale price of such property, except that such rate shall be one percent of the sale price of such property in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdictions of such cities, except as provided in subsections (b), (c) and (d).

b. The storage, use or other consumption in that part of Talladega County outside the police jurisdictions of the cities located in Talladega County of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail at the rate of one-half of one percent of the sales price of such machine except that such rate shall be one-fourth of one percent of the sale price of such property in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdictions of such cities; provided, that the term "machine" as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines

and which are necessary to the operation of such machines and are customarily so used.

c. The storage, use or other consumption in that part of Talladega County outside the police jurisdictions of the cities located in Talladega County of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail for storage, use or other consumption in such part of Talladega County, at the rate of one-half of one percent of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer except that such rate shall be one-fourth of one percent of the sales price of such property in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdictions of such cities. Where any used automotive vehicle or a truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied shall be paid on the net difference, that is, the price of the new or used vehicle sold less a credit for the used vehicle taken in trade.

d. An excise tax is hereby levied and imposed on the storage, use or other consumption in that part of Talladega County outside the police jurisdiction of the cities located in Talladega County on any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail after the effective date of this act, for the storage, use or other consumption in that part of Talladega County outside the police jurisdiction of the cities located in Talladega County at the rate of one-half of one percent of the sales price of such property except that in those areas of the county which are situated outside of the corporate limits of the cities located in Talladega County, but within the police jurisdiction of such cities, such tax shall be levied in an amount equal to only one-fourth of one percent of the sales price of such property regardless of whether the retailer is or is not engaged in the business in this county. Provided, however, the farm rates herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating and harvesting farm products or used in connection with the production of agricultural produce or products, livestock and poultry on farms is

taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

Section 2. There are exempted from the levy of such taxes the gross receipts of any business and the gross proceeds of all sales which are exempted under the state sales tax statutes from the computation of the amount of the state sales tax. And there is also exempted from the levy the storage, use or other consumption of property, the storage, use or other consumption of which is exempted under the state use tax statutes from the state use tax. Subject to these exemptions, every person storing or using or otherwise consuming in that part of Talladega County outside the corporate limits of the cities located in Talladega County tangible personal property purchased at retail shall be liable for the tax imposed, and the liability shall not be extinguished until the tax has been paid by such person; provided, however, that a receipt from a registered seller given to the purchaser of any property to be used, stored or consumed in such part of Talladega County shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer. The term "registered seller" means the person registered with the state department of revenue pursuant to the state sales tax statutes. The term "state sales tax statutes" means chapter 23 of Title 40 of the Code of Alabama 1975, which levies a retail sales tax for state purposes and includes all statutes, which expressly set forth any exemptions from the computations of the tax levied in said chapter, and all other statutes which expressly apply to, or purport to affect, the administration of said chapter and the incidence and collection of the tax imposed therein. The term "state use tax statutes" means chapter 23 of Title 40 of the Code of Alabama 1975, including all statutes enacted which expressly set forth any exemptions from the computation of the tax levied in said chapter and all other statutes which expressly apply to, or purport to affect, the administration of the said chapter and the incidence and collection of the tax imposed therein.

Section 3. The sales tax levied in Section 1 shall be due and payable in monthly installments on or before the 20th day of the month next succeeding the month in which the tax accrued; the use tax levied pursuant to Section 1 shall be due and payable quarterly on or before the 20th day of the month next succeeding each quarterly period during which the storage, use or other consumption of the tangible personal property became taxable, each such quarterly period to end on the last day of each of the months of March, June, September and December. All taxes levied pursuant to this act

shall be paid to and collected by the state department of revenue at the same time and along with the collection of the state sales tax and the state use tax. On or prior to the due dates of the taxes levied, each person subject to such taxes shall file with the state department of revenue a report or return in such form as may be prescribed by the department, setting forth with respect to all sales and business that are required to be used as a measurement of the tax levied, a correct statement of the gross proceeds of all such sales and the gross receipts of all such business, and setting forth with respect to the use tax levied, the total sales price of all property, the use, storage or other consumption of which became subject to the tax during the then preceding quarterly period. Such reports shall include also such other items of information pertinent to the said taxes and the amount thereof as the state department of revenue may require. Any person subject to the taxes levied may defer reporting credit sales until after their collection, and in the event he so defers reporting them, he shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the taxes due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the county commission of Talladega County, or its designated agent, at reasonable times during business hours.

Section 4. Every registered seller making sales of tangible personal property for storage, use or other consumption in that part of Talladega County outside the corporate limits of the cities located in Talladega County (which storage, use or other consumption is not exempted from the tax imposed), shall at the time of making such sale, or if the storage, use or other consumption of such tangible personal property in such part of Talladega County is not then taxable under this act, at the time such storage, use or other consumption becomes taxable hereunder, collect the tax from the purchaser, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the state department of revenue. On the twentieth day of the month following the close of each quarterly period provided for in Section 3 hereof, each registered seller shall file with the state department of revenue a return for the preceding quarterly period in such form as may be prescribed by the department showing the total sales of the tangible personal property sold by such registered seller, the storage, use or other consumption of which became subject to the tax imposed during the then preceding quarterly period; and each return shall be accompanied by a remittance of the amount of the tax required to be collected by such registered seller during the period followed by the return; provided, that any registered seller may defer collecting the tax with respect to credit sales until

collection of the proceeds of such sales and may defer reporting credit sales until after their collection, but shall thereafter collect the said taxes along with collection of said credit sales and shall include in each quarterly report all credit collections made during the preceding quarterly period, and shall remit the taxes with respect thereto at the time of filing such report or return. Any person who has paid to a registered seller the tax with respect to the use, storage, or other consumption of tangible personal property in that part of Talladega County outside the corporate limits of the cities located in Talladega County need not file a report or make any further payments of the said tax, but each person who purchases tangible personal property, the storage, use, or other consumption of which is subject to the tax imposed, and who has not paid the tax due with respect thereto to a registered seller, shall report and pay the tax as required by Section 3.

Section 5. Each person engaging or continuing within that part of Talladega County outside the corporate limits of the cities located in Talladega County in a business subject to the taxes levied in Section 1 shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said taxes; and every registered seller shall likewise add to the sales price and collect from the purchaser the amount of any tax which such registered seller is required to collect. It shall be unlawful for any person subject to the tax levied to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sales or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof. It shall likewise be unlawful for any registered seller to fail or refuse to add to the sales price and to collect from the purchaser the amount of the tax imposed or to refund or offer to refund or absorb, or to advertise directly or indirectly the absorption of, said tax or any portion thereof.

Section 6. The taxes imposed by this act shall constitute a debt due Talladega County and may be collected by civil suit, in addition to all other methods provided by law and in this act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All provisions of the revenue laws of this state which apply to the enforcement of liens for license taxes due the state shall apply fully to the collection of the county taxes levied, and the state

department of revenue for the use and benefit of Talladega County shall collect such taxes and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax and the use tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes authorized to be levied by this act, and otherwise to enforce the provisions of this act, including any litigations involving the act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it for Talladega County.

Section 7. All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, interest after due date of tax, penalties for failure to pay tax, make reports, or otherwise comply with the state sales tax statutes, the promulgation of rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 1 hereof, shall apply to the county tax levied, and all provisions of the state use tax statutes with respect to payment, assessment, and collection of the state use tax, making quarterly reports, and keeping and preserving records with respect thereto, interest after due date of tax, penalties for failure to pay tax, make reports or otherwise comply with the state use tax statutes, the promulgation of rules and regulations with respect to the state use tax, and the administration and enforcement of the state use tax statutes, which are not inconsistent with the provisions of this act when applied to the county use tax levied shall apply to the county tax. The commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties, and obligations with respect to the county taxes levied as are imposed on the commissioner and the department, respectively, by the state sales tax statutes and the state use tax statutes. All provisions of the state sales tax statutes and the state use tax statutes that are made applicable by this act to the county taxes levied and to the administration of this act are incorporated herein by reference and made a part hereof as if fully set forth herein.

Section 8. The state department of revenue shall charge Talladega County for collecting the special county taxes levied such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the county commission, but such charge shall not in any event exceed five percent of the total amount of special county taxes collected hereunder within the county. Such charge for collecting the special taxes for the county may be deducted each month from the special sales and special use taxes collected

before certifying the amount of the proceeds thereof due Talladega County for that month. The commissioner of revenue shall pay into the state treasury all county taxes collected under this act, as such taxes are received by the department of revenue; and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collections hereunder), the commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this act and paid by him into the state treasury for the benefit of Talladega County during the month immediately preceding the making of such certificate. Provided, however, that before certifying the amount of the taxes paid into the state treasury for the benefit of Talladega County during each month, the commissioner may deduct from the taxes collected in said month the charges due the department for the collection of the taxes of the county. It shall be the duty of the comptroller to issue his warrant each month payable to the Talladega County Debt Retirement Fund, in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. The county treasurer for Talladega County shall deposit the revenue derived from the taxes levied herein in the Debt Retirement Fund.

Section 9. The proceeds from the taxes provided for herein shall be collected by the state department of revenue and shall be remitted to Talladega County separate from any other taxes for the benefit of Talladega County or any other monies to Talladega County. The department shall charge Talladega County for collecting the taxes in such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Talladega County commission, but such charge shall not exceed five percent of the total amount collected hereunder.

Section 10. All provisions of the state sales and use tax statutes with respect to exemptions, payment, assessment and collection of the sales and use taxes, making of reports and preserving records with respect thereto, interest after due date of tax, penalties for failure to comply with the statutes, the promulgation of rules and regulations with respect to those state sales and use tax statutes which are not inconsistent with this statute shall apply. The commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county taxes as are imposed on the commissioner and the department, respectively, by the sales and use tax statutes.

Section 11. All revenues arising from the taxes herein levied shall be deposited in a special fund, hereinafter designated Debt Retirement Fund, to be applied by the county commission for the payment of the county's existing indebtedness, including, but

not limited to, accounts payable, bond issues and warrants, which said indebtedness existed as of June 14, 1991.

Section 12. It shall be the duty of each county commissioner of Talladega County, Alabama, to inspect and review in regularly scheduled public commissioner's meetings, where minutes are recorded, and vote recorded at the Talladega County Courthouse, Talladega, Alabama, each claim presented for payment from the Debt Retirement Fund created by this act and such officers shall examine and determine independently whether said claim is an authorized expenditure from the Debt Retirement Fund and whether or not said payment is solely expended for payment of the county's existing indebtedness, including, but not limited to, accounts payable, bond issues and warrants, which said indebtedness existed as of June 14, 1991.

Section 13. No portion of the Debt Retirement Fund can be transferred to any other fund of Talladega County or pledged to satisfy any other obligation of Talladega County inconsistent with this act. Each individual Talladega County commissioner voting to approve payment from the Debt Retirement Fund, for any purpose not specifically authorized by this act, shall be individually liable for the disbursement of any funds contrary to this act.

Section 14. It shall be the duty of each member of the Talladega County commission to cause all claims, documentation of claims, warrants and all other writings relating to the Debt Retirement Fund be segregated from all other records of Talladega County in order to ensure prompt auditing of the Debt Retirement Fund.

Section 15. It shall be the duty of each member of the Talladega County commission to cause all funds generated pursuant to this act to be deposited in a separate financial account from all other county funds and that all warrants written on said fund must be first approved in open commissioner's court and said warrants or checks drawn thereon shall be signed by at least two (2) commissioners.

Section 16. The tax created by this act shall terminate when the Debt Retirement Fund equals an amount necessary to satisfy in full the indebtedness as designated hereinabove.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. This act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:09 P.M.

Act No. 91-534

H. 1081 — Rep. Johnson

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Sylacauga, in Talladega County.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The boundary lines and corporate limits of the municipality of Sylacauga in Talladega County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality in addition to the lands now included, all of the following territory, to wit:

PARCEL 1. A tract or parcel of land situated in the Southwest Quarter of the Southeast Quarter of Section 36, Township 21 South, Range Three (3) East, and being more particularly described as follows: Commence at the Northeast corner of the said Southwest Quarter of the Southeast Quarter of said Section 36 and from said corner proceed South along the East boundary line of said forty 622 1/2 feet; thence proceed West 338 1/2 feet to the point of beginning of the property here conveyed, which point is the Southeast corner of the property here conveyed; thence continue West for 130 feet; thence turn to the right at an angle of 78 degrees 9 minutes and proceed in a Northwesterly direction 182.7 feet, more or less to a point on the South side of the right-of-way of the Sylacauga-Gantts Quarry Public Road; thence proceed in a Northeasterly direction along the South side of the right-of-way of the Sylacauga-Gantts Quarry Public Road for 152.5 feet, more or less to a point that lies directly North of the point of beginning; thence proceed South for 261 feet, more or less, to a point of beginning.

PARCEL 2. Commence at the southeast corner of the Northeast one-fourth of the Southwest one-fourth (NE 1/4 of SW 1/4) of Section 28, Township 20 South, Range 4 East, Talladega County, Alabama; thence proceed West along the south boundary of said quarter-quarter section for a distance of 430 feet to the point of beginning. From this beginning point continue West along the south boundary of said quarter-quarter section for a distance of 280.0 feet; thence turn an angle of 90 degrees to the right and proceed North for a distance of 637.49 feet to a point on the southeast boundary of a county road; thence turn an angle of 42 degrees 22 minutes to the right and proceed Northerly along the southeast boundary of said county road for a distance of 413.25 feet; thence turn an angle of 137 degrees 38 minutes to the right and proceed south for a distance of 939.94 feet to the point of beginning. The above described land is located in the Northeast one-fourth of the Southwest one-fourth (NE 1/4 of SW 1/4) of Section 28, Township

20 South, Range 4 East, Talladega County, Alabama, and contains 5.0 acres.

PARCEL 3. Commence at the Northeast corner of the Southeast one-fourth of the Northwest one-fourth of Section 11, Township 21 South, Range 3 East, Talladega County, Alabama; thence proceed North $88^{\circ} 20'$ West along the North boundary of said quarter-quarter section for a distance of 441.88 feet to the point of beginning. From this beginning point continue North $88^{\circ} 20'$ West along the North boundary of said quarter-quarter section for a distance of 204.75 feet; thence proceed South $2^{\circ} 05'$ West for a distance of 638.24 feet to a point on the North boundary of a dirt street; thence proceed South $88^{\circ} 20'$ East along the North boundary of said street for a distance of 204.75 feet; thence proceed North $2^{\circ} 05'$ East for a distance of 638.24 feet to the point of beginning. The above described land is located in the Southeast one-fourth of the Northwest one-fourth of Section 11, Township 21 South, Range 3 East, Talladega County, Alabama, and contains 3.0 acres.

PARCEL 4. Lot #3, Block D, according to the survey of certain Avondale Mills property in or near the City or Town of Sycamore, Talladega County, Alabama, a map of which is recorded in Volume 3, Page 33, in the Office of the Judge of Probate of said County.

PARCEL 5. Lot Number 4 in Block D, according to the survey of certain Avondale Mills property in or near the city or town of Sycamore, Talladega County, Alabama, a map of which is recorded in Volume 3, Page 33, in the Office of the Judge of Probate of Talladega County.

PARCEL 6. The East half of the Northwest Quarter of the Northeast Quarter (E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$) of Section 15, Township 21 South, Range 3 East.

PARCEL 7. Commence at the Southeast corner of the Southwest one-fourth of the Northeast one-fourth of Section 24, Township 21 South, Range 3 East, Talladega County, Alabama; thence proceed West along the South boundary of said quarter-quarter section for a distance of 660 feet; thence turn an angle of $90^{\circ} 04'$ to the right and proceed North for a distance of 31.7 feet to a point on the North right-of-way line of SACP 409-B (Talladega County Paved Highway); thence turn an angle of $89^{\circ} 20'$ to the left and proceed West along the North right-of-way line of said County Highway for a distance of 204.9 feet; thence turn an angle of $90^{\circ} 42'$ to the right and proceed North for a distance of 180 feet to the point of beginning. From this beginning point continue North for a distance of 125.0 feet; thence turn an angle of 90° to the left and proceed West for a distance of 180.0 feet; thence proceed South for a distance

of 125.0 feet; thence proceed East for a distance of 179.6 feet to the point of beginning. The above described land is located in the Southwest one-fourth of the Northeast one-fourth of Section 24, Township 21 South, Range 3 East, Talladega County, Alabama, and contains 0.52 acres.

PARCEL 8. Begin at the Northwest corner of the Southeast one-fourth of the Northeast one-fourth Section 33, Township 21 South, Range 3 and run South 128 feet along the West boundary line to a point where the said West boundary line crosses the South boundary line of the New Hill Cemetery to Old Fayetteville Highway for a point of beginning; run South along said boundary line approximately 193 feet to the North boundary line of the L & N Railroad; thence Eastward along the North boundary line of a private road; (running from said railroad Northward to the South boundary line of the New Highway); thence Northward along the West boundary line of said private road approximately 225 feet to the South boundary line of the Hill Cemetery to Old Fayetteville Highway, thence Westward along the South boundary line of said highway approximately 387 feet to the point of beginning, containing approximately 2 acres and located in the Northwest one-fourth of the Southeast one-fourth of the Northeast one-fourth of Section 33, Township 21 South, Range 3.

PARCEL 9. TRACT A: Begin at the northeast corner of the northeast quarter of the southwest quarter of section 20, Township 21, Range 4 East and thence run South along the east line of said forty a distance of three hundred and fifteen (315) feet, more or less to the southeast corner of a tract of land formerly owned by Mary Wills, now owned by Mrs. Evelyn Gentry, for a point of beginning; from this point thence run south along said east line a distance of 105 feet more or less to an open roadway; thence run west along the north line of said roadway; a distance of 105 feet; thence run north a distance of 105 feet, more or less to the south line of said Mary Wills tract of land; thence run east along the south line of said Mary Wills tract of land 105 feet to the point of beginning. Situated in the NE 1/4 of the SW 1/4 of Section 20, Township 21, Range 4 East.

Tract B: Begin at the northeast corner of the NE 1/4 of the SW 1/4 of Section 20, Township 21 South, Range 4 East, and then run South along the East line of said forty a distance of 222 feet to the south side of a roadway, thence run west along the South side of said roadway a distance of 105 feet, thence run South on a line parallel with the east line of said Forty a distance of 96.75 feet to the southeast corner of the land of Paul Haywood, for a point of beginning of the land hereby conveyed; from this point run south 96.75 feet more or less to the north line of a road or street; thence run

west along the north line of said road or street 105 feet, thence run north on a line parallel with the east line of said forty a distance of 96.75 feet, more or less to the land of Paul Haywood; then run east along the south line of the land of Paul Haywood 105 feet to the point of beginning.

SECTION 2. All laws or parts of laws which conflict with this act are hereby repealed.

SECTION 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:10 P.M.

Act No. 91-535

H. 1084 — Reps. Cosby, Thomas, Bryant

AN ACT

Relating to Dallas County; providing for fire protection in certain areas of the county; levying a special fire protection property tax; providing for certain exemption from such tax and for collection of such tax; providing for disposition of funds from such tax to the county fire association and to the volunteer fire departments; providing for expenditure and accounting of such funds; providing for treatment of funds upon dissolution or abandonment of a volunteer fire department; granting immunity from certain liability to the county and providing for a referendum election on the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply only to those portions of Dallas County located outside the corporate boundaries of the city of Selma.

Section 2. The Legislature hereby declares that the county fire association and the volunteer fire departments that receive funds pursuant to this act are organizations which are public in nature, as they promote and protect the health, safety and welfare of the citizens of the county.

Section 3. The county commission of Dallas County is hereby authorized and empowered to levy and collect a special property tax, in addition to all other taxes now or hereafter provided by law, not exceeding three and one-half mills on each one dollar's worth of taxable property outside the corporate limits of the City of Selma, as assessed for state ad valorem taxation during the preceding

year. The proceeds of the additional taxes levied by this act shall be used exclusively for fire, emergency medical and rescue services.

Section 4. The Tax Assessor of Dallas County shall assess the tax herein provided for, and the Tax Collector of Dallas County shall collect the tax, in the same manner and method that other ad valorem taxes are collected. The proceeds of said tax shall be paid into a special county fund. Within thirty days of payment into such special fund, the county commission shall allocate said funds among the Dallas County Fire Association and eligible volunteer fire departments. The Dallas County Fire Association shall receive two thousand dollars from such funds and the remainder of said funds shall be divided equally among the eligible volunteer fire departments.

Section 5. An eligible volunteer fire department, for purposes of this act, shall mean a volunteer fire department located in Dallas County that maintains an ISO approved rating and/or that is certified under the Alabama Forestry Commission guidelines.

Section 6. Funds paid to eligible volunteer fire departments shall only be expended for fire protection and emergency medical and rescue services, including training, supplies and equipment. Said funds may also be expended to purchase liability insurance to insure coverage of acts or omission which are directly related to the functions of a volunteer fire department which are committed by a volunteer fire department and/or the personnel of a volunteer fire department. Said funds may not be expended for salaries, food, drink, social activities or fund-raising activities. After receiving funds, the volunteer fire departments shall keep accurate records to verify that the funds were properly expended. By September 15th of each year, the department shall file a financial statement with the county association and the county commission detailing the expenditure of all funds during the previous twelve months. Said filing shall also account for all unspent funds and whether said unspent funds have been obligated. The county association shall supply the accounting forms to each eligible volunteer fire department. Provided, further, that no new fire departments shall be funded within Dallas County without the prior approval of the Dallas County Association of Volunteer Fire Departments, the Alabama Forestry Commission and the Dallas County Commission.

Section 7. Upon dissolution or abandonment of any eligible volunteer fire department, any remaining funds derived from this act or any assets purchased with funds derived from this act shall, after all indebtedness has been satisfied, be transferred to the county commission. Said funds and assets shall be reallocated by the county commission to other volunteer fire departments. In the

event there are no volunteer fire departments, the funds or assets shall be placed in the county general fund.

Section 8. The personnel of volunteer fire departments provided for in this act shall not be considered as employees, servants or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of said personnel of volunteer fire departments.

Section 9. A referendum election shall be held in Dallas County on the same date as the first special or regular county-wide election is held following passage of this act. On the ballot the question shall be presented substantially as follows: "Do you favor the provisions of Act No. 91 ____ of the 1991 Regular Session which levies an additional 3 1/2 mill ad valorem tax to be used to fund volunteer fire departments and the county fire association? Yes ____ No ____."

If a majority of the qualified electors of those portions of Dallas County located outside of the corporate limits of Selma vote "yes," the provisions of this act shall thereupon become effective. If a majority vote "No," the provisions of this act shall become invalid and shall have no further effect of law.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are hereby repealed.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:11 P.M.

Act No. 91-536

H. 1091 — Reps. Carothers, Mathis, Beasley
AN ACT

Relating to Houston County; providing further for the compensation of poll workers.

Be It Enacted by the Legislature of Alabama:

Section 1. In Houston County, election officials who work at polling places are hereby entitled to an additional per diem allowance

in such an amount as will, together with any amount paid by the state, make the total paid to such officials fifty-five dollars (\$55.00) for each day they work at the polls and supervisors are hereby entitled to an additional per diem allowance in such amount as will, together with any amount paid by the state make the total paid to them sixty-five dollars (\$65.00) for each day they work at the polls. If the amount paid to such officials as compensation or expense allowance by the state increases in the future, then the amount paid by the county under this act shall automatically decrease in a like amount. The expense allowance provided for in this act shall be paid from the general fund of the county.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:12 P.M.

Act No. 91-537

H. 1092 — Rep. Hill

AN ACT

Relating to Shelby County; repealing Act No. 1886, H. 2579, 1971 Regular Session, which provides for an assessment on forest lands for fire protection.

Be It Enacted by the Legislature of Alabama:

Section 1. In Shelby County, Act No. 1886, H. 2579, 1971 Regular Session, is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:13 P.M.

Act No. 91-538

H. 1093 — Reps. Blakeney, Black (L)

AN ACT

Relating to Choctaw County; repealing Act No. 83-549, H. 451, 1983 Regular Session, which provides for an assessment on forest lands for fire protection.

Be It Enacted by the Legislature of Alabama:

Section 1. In Choctaw County, Act No. 83-549, H. 451, 1983 Regular Session, is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:14 P.M.

Act No. 91-539

H. 1094 — Reps. Venable, Mikell

AN ACT

Relating to Elmore County, providing further for the compensation of the coroner.

Be It Enacted by the Legislature of Alabama:

Section 1. In Elmore County, the county coroner, during the current term of office, shall continue to receive as compensation the amount of \$200.00 per month as provided in Act No. 83-691, H. 677, 1983 Regular Session. Effective at the beginning of the next term of office in January 1995, and all subsequent terms of office, the compensation of the coroner shall be set by resolution of the county commission at least four months prior to the primary election at which candidates for coroner will be nominated.

Section 2. With prior approval by the county commission, said commission is hereby authorized to reimburse the county coroner for actual expenses incurred in the operation of his office and further may pay the coroner for actual mileage in an amount not to exceed the amount paid to other county employees in the performance of their duties. The provisions of this section shall be retroactive to January 20, 1991.

Section 3. The coroner shall be authorized to appoint a chief deputy coroner to serve in his absence. He may also appoint deputy coroners from among deputy sheriffs with the consent of the sheriff. The county commission may, by resolution, provide for the payment of expenses to the chief deputy coroner and deputy coroners. Provided, however, deputy sheriffs acting as deputy coroners during their normal duty hours shall not receive additional compensation. The coroner shall furnish to the county commission a proposed budget for operating expenses for each fiscal year prior to each October 1.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:15 P.M.

Act No. 91-540

H. 1095 — Reps. Higginbotham, Turnham

AN ACT

Relating to county officers of Lee County who are required by law to receive revenue through their respective offices; to establish in the county general fund a special reserve fund of \$5,000.00 to be available to said officers to charge off bad or uncollectable checks, provided that all other legal remedies shall be pursued to collect such unpaid items.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established in the Lee County general fund a special reserve fund of \$5,000.00 per year for the payment of bad or uncollectable checks as herein provided.

Section 2. All officers of Lee County who are required by law to receive revenue through their respective offices and who incur bad or uncollectable checks are authorized to charge off such checks against the said reserve fund, provided that all other legal remedies shall be pursued to collect such unpaid items.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. The provisions of this act are cumulative and supplemental to other existing laws.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:16 P.M.

Act No. 91-541

H. 1098 — Reps. Blakeney, Black (L)

AN ACT

Relating to Choctaw County; providing that the Sheriff of Choctaw County may establish a canteen for the purpose of selling supplies to prisoners and to provide for the disposition for revenue derived from such sales.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Choctaw County may establish a canteen for the purpose of selling supplies to prisoners. All revenue derived from the sale of such supplies may be spent at the discretion of the sheriff for equipment and supplies for the County Jail or the Choctaw County Sheriff's Department.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:17 P.M.

Act No. 91-542

H. 1079 — Reps. Johnson, Haynes

AN ACT

To authorize the Talladega County Commission acting pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, to increase the rate at which there is levied and collected by Talladega County on all taxable property situated within Talladega County, outside the corporate limits of the cities of Talladega and Sylacauga, the special school tax which is authorized in Amendment No. 252 to the Constitution, to a maximum rate, for any tax year of the county, which is equal to \$1.50 on each one hundred dollars (15 mills on each dollar) of assessed value.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words and phrases used in this act, and others evidently intended as the equivalent thereof, shall, in the absence of a clear implication herein otherwise, be given the following respective interpretations herein:

(a) "Amendment No. 252" means that certain amendment to the Constitution that was proposed by Acts 1965, pages 373 and 678 and ratified December 13, 1965.

(b) "Amendment No. 373" means that certain amendment to the Constitution that was proposed by Act No. 6 enacted at the 1978 Second Special Session of the Legislature of Alabama.

(c) "County" means Talladega County, Alabama.

(d) "Governing body" means the Talladega County Commission.

(e) "Special school tax" means the special tax that is authorized by Amendment No. 252, to be levied and collected on taxable

property in Talladega County outside the City of Talladega and Sylacauga.

Section 2. The county is presently authorized to levy and collect the special tax at the rate of 30 cents on each one hundred dollars (3 mills on each dollar) of assessed value pursuant to Amendment No. 252. In accordance with a resolution adopted by the County Commission pursuant to the provisions of Amendment No. 373, the county proposes to increase the rate at which the county is authorized to levy and collect the special school tax to a maximum rate, for any tax year, which is equal to \$1.50 on each one hundred dollars (15 mills on each dollar) of assessed value.

Section 3. In accordance with subsection (f) of Amendment No. 373, the County Commission is hereby authorized to levy and collect the special school tax to a maximum, for any tax year, which is equal to \$1.50 on each one hundred dollars (15 mills on each dollar) of assessed value. The revenues from the increase in said tax, which increase is in the amount of 12 mills for each dollar of taxable property, shall be used for public school purposes.

Section 4. The increase in the rate at which the special school tax may be levied and collected pursuant to this act is subject to the approval of a majority of the qualified electors residing in Talladega County outside the corporate limits of the cities of Talladega and Sylacauga who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:18 P.M.

Act No. 91-543

H. 1089 — Rep. Higginbotham

AN ACT

Relating to the City of Opelika in Lee County, Alabama; altering and rearranging the boundary lines and corporate limits in the City of Opelika by adding certain parcels of land.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Opelika in Lee County are hereby altered, rearranged and

extended so as to include in the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to wit:

- (a) Section 4, Township 19 North, Range 26 East.
- (b) The south one-half of Sections 28 and 33, Township 20 North, Range 26 East.
- (c) That part of Section 9, Township 19 North, Range 26 East lying northeasterly of U. S. Highway 280.
- (d) The west one-half of the southwest quarter of Section 27, Township 20 North, Range 26 East.
- (e) The northwest quarter of the northwest quarter of Section 34, Township 20 North, Range 26 East.
- (f) A parcel of land located in Section 34, Township 20 North, Range 26 East and being more particularly described as follows: Commence at the northeast corner of said Section 34, thence west along the north line of said Section 34 for 3960' to the point of beginning. From said point of beginning run South 880.44'; thence East for 989.34'; thence north 880.44'; thence West for 989.34' to the point of beginning.
- (g) A parcel of land located in Section 27, Township 20 North, Range 26 East and being more particularly described as follows: Commence at the southeast corner of said Section 27, thence West along the south line of said Section 27 for 3960' to the point of beginning. From said point of beginning run North 330.0'; thence East for 989.34'; thence South for 330.0'; thence West for 989.34' to the point of beginning.
- (h) That part of the north one-half of Section 28, Township 20 North, Range 26 East lying southeasterly of Lee Road 097 (Lee County 35).
- (i) A parcel of land located in Section 5, Township 19 North, Range 26 East and being more particularly described as follows: Begin at the southeast corner of said Section 5; thence N 01°01'S9"E for 3704.33' along the west line of said Section 5; thence N 88°01'12"W for 60.52' to the northeast corner of Eljocrich Eagle Heights Estates as recorded in plat book 13, page 155 in the Office of the Judge of Probate of Lee County Alabama; thence continue N 88°01'12"W along the north line of said Eljoerich Eagle Heights Estates for 2548.70'; thence S 2°00'34"W for 983.69'; thence N 88°01'12"W for 2248.51'; thence S 1°59'43"W for 154.92'; thence N 87°56'21"W for 214.52' to the Northerly margin of U. S. Highway 280; thence run in a southeasterly direction along the northerly margin of said Highway 280 to the point where the northerly margin of

Highway 280 intersects the south section line of said Section 5; thence run in an easterly direction along said section line to the point of beginning.

(j) That part of Section 8, Township 19 North, Range 26 East lying northeasterly of U. S. Highway 280.

(k) All of the territory listed in subsection (a) through (j) less and except a parcel of land located in Sections 4, 5, 8, and 9 of Township 19 North, Range 26 East in Lee County, Alabama, being more particularly described as follows, to-wit: Commence at the northwest corner of Section 4, Township 19 North, Range 26 East, in Lee County, Alabama and thence run South 02 degrees, 01 minutes East 3834.2 feet to a point on the centerline of a 100-foot wide Alabama Power Company powerline easement and the point of beginning; thence run North 88 degrees, 35 minutes East along said powerline, 898.6 feet to a point; thence run North 67 degrees, 24 minutes East along said powerline, 301.3 feet to a point on the west margin of Lee County Highway Number 35, also known as the North Auburn Road; thence run South 02 degrees, 58 minutes East along said margin, 339.8 feet to a concrete right-of-way monument (P. T. Station 26+57.9); thence run in a southeasterly direction along the arc of a curve to the left, having a radius of 442.1 feet, for a curve distance of 451.2 feet to a concrete right-of-way monument (P. C. Station 22+47.5); thence continue along the southwest margin of said highway South 61 degrees, 27 minutes East, 38.0 feet to the centerline of Saugahatchee Creek; thence continue along the southwest margin of said highway along the arc of a curve to the right, having a radius of 723.90 feet, for a curve distance of 120.56 feet; thence South 33 degrees, 31 minutes, 21 seconds West, 408.29 feet to a point; thence run South 47 degrees, 36 minutes, 21 seconds West, 602.01 feet to a point; thence run South 89 degrees, 28 minutes, 48 seconds West, 68.41 feet to a point; thence run South 89 degrees, 20 minutes West, 414.61 feet to a point; thence run South 03 degrees, 35 minutes East, 601.41 feet to a point, which is located on the Northern right-of-way of U. S. Highway 280, thence run North 68 degrees, 46 minutes West along a chord of said Highway for a distance of 319.56 feet to a point also located on the Northern right-of-way of said Highway; thence run in a westerly direction along the Northern right-of-way of said Highway, 200 feet, more or less, to the West line of Section 9, Township 19 North, Range 26 East; thence run North 76 degrees, 42 minutes West, 527.75 feet to a point; thence run North 12 degrees, 10 minutes East, 20.0 feet; thence run North 77 degrees, 50 minutes West, 345.9 feet to a point; thence run North 12 degrees, 10 minutes East, 20.0 feet to a point; thence run North 77 degrees, 50 minutes West, 42.11 feet to a point lying and being in the center of Saugahatchee Creek; thence run North 44 degrees,

59 minutes East, 161.18 feet; thence run North 52 degrees, 06 minutes East, 903.82 feet to the centerline of a 100-foot wide Alabama Power Company powerline easement; thence run North 58 degrees, 17 minutes, 55 seconds West, 204.60 feet along the centerline of said easement; thence run North 36 degrees, 03 minutes East, 560 feet, more or less, to the western margin of Section 4; thence run North 02 degrees, 01 minutes West, 390.9 feet to the point of beginning.

Section 2. In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the City of Opelika is on file in the office of the judge of probate in Lee County, Alabama, and such map is open to public inspection.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:19 P.M.

Act No. 91-544

H. 1090 — Rep. Rich

AN ACT

Relating to the City of Arab; approving an increase of the five mill ad valorem tax levied in the city pursuant to the general provisions of the Constitution and laws of the State of Alabama by nine and one-half mills to fourteen and one-half mills, all in accordance with Amendment No. 373 to the Constitution of Alabama of 1901; such additional nine and one-half mill tax to be levied and collected for each year beginning with the levy for the tax year October 1, 1991, to September 30, 1992 (the tax for which year will be due and payable October 1, 1992) and ending with the levy for the tax year October 1, 2020, to September 30, 2021 (the tax for which year will be due and payable October 1, 2021) and to be used by the city board of education for public school purposes; provided that the aforesaid increased rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of the city at a special election called and held in accordance with the law governing special elections.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any taxes now authorized or that may hereafter be authorized by the Constitution and laws of the State of Alabama, pursuant to Amendment No. 373 to the Constitution of the

State of Alabama, an increase of the ad valorem tax presently being levied in the City of Arab, Alabama, pursuant to the general provisions of the Constitution and laws of the State of Alabama from the rate of fifty cents on each one hundred dollars worth of taxable property in the city to the rate of one dollar and forty-five cents on each one hundred dollars worth of taxable property in said city (an increase of ninety-five cents on each one hundred dollars worth of taxable property, or nine and one-half mills) is approved; such additional nine and one-half mill tax to be levied and collected for each year beginning with the levy for the tax year October 1, 1991, to September 30, 1992 (the tax for which year will be due and payable October 1, 1992) and ending with the levy for the tax year October 1, 2020 to September 30, 2021 (the tax for which year will be due and payable October 1, 2021) and to be used by the city board of education of the City of Arab for public school purposes; provided, that the aforesaid increased rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of said city, and voted for by a majority of those voting at a special election called and held in accordance with the law governing special elections.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:20 P.M.

Act No. 91-545

H. 396 — Rep. Penry

AN ACT

To authorize any Class 2, 3, 4, 5, 6, 7 or 8 municipality, operating under a council-manager form of government or under a mayor-council-city manager form of government, to establish a council-manager form of government; to provide for an election for the qualified electorate to continue to operate under the council-manager form of government under this act or to choose the mayor-council form of government pursuant to Section 11-43-1, et seq. of the Code of Alabama 1975, which provides for the operation and administration of such governing body; to provide for the powers, duties and responsibilities and terms of office for each form of government; to prescribe that any annexation and the present boundaries shall continue; to provide that the mayor and council members shall continue in office until the expiration of their current terms; to provide for the composition of the council and the number of single-members districts and for certain municipal

officers; to preserve any current civil service or merit system; to provide for the transition of powers, duties and assets of any office, department, board, commission or agency where applicable, as well as the continuation of all contracts, public improvements, ordinances providing for civil or criminal penalties, the proceedings of the municipality, and resolutions; to provide for referendum procedures and the effective date; to provide for fiscal and budgetary matters of the governing body and municipality; to repeal any laws or parts of laws in conflict with this act; and to prescribe criminal penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. Within three months of the approval of this act by the Governor, the governing body of any Class 2, 3, 4, 5, 6, 7 or 8 municipality in the State of Alabama operating under a council-manager or under a mayor-council-city manager form of government may, by a majority vote of the members of that governing body, adopt an ordinance establishing a council-manager form of government pursuant to the terms and conditions of this act. All provisions of this act set forth hereinbelow shall apply only to those Class 2, 3, 4, 5, 6, 7 or 8 municipalities electing to establish a council-manager form of government as set forth herein. This act shall be known as the "Council-Manager Act of 1991."

Section 2. When such an ordinance is adopted within the time period specified in Section 1, the council-manager form of government under this act shall become effective for such municipality either (i) immediately upon receipt of preclearance of such ordinance by the United States Department of Justice under the Voting Rights Act of 1965, as amended, or (ii) upon the first Monday in October following the next regularly scheduled municipal election, whichever effective date is specified in the ordinance.

Section 3. The form of government of any municipality proceeding under this act shall be known as the "council-manager form of government." Pursuant to the provisions and limitations of this act, and subject to the limitations imposed by the constitution and laws of Alabama, all powers of the municipality shall be vested in the council as herein provided. All powers of the municipality shall be exercised in the manner prescribed by this act, or if the manner is not prescribed herein, then in such manner as may be otherwise prescribed by law or ordinance.

Section 4. Any municipality which adopts the council-manager form of government under this act shall continue its existence as a body corporate without change in the municipal corporation. The word "municipality" as herein used shall mean and refer to any municipal corporation which elects to come within the provisions of this act. The municipality shall continue as a municipal corporation within the corporate limits as then established, including all annexations, and as thereafter fixed in the manner prescribed by law, subject to all of the duties and obligations then

pertaining to or incumbent upon it as a municipal corporation, and shall continue to enjoy the rights, immunities, powers and franchises then enjoyed by it, as well as those that may thereafter be granted to it.

Section 5. The municipality shall have all the powers granted to municipal corporations by the constitution and the laws of this state together with all the implied powers necessary to carry into execution all the powers granted. The municipality may acquire property within or without its corporate limits for any municipal purpose, any lesser interest or estate, by purchase, in fee simple or gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution and the laws of this state or restricted by this act, the municipality shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this act shall not be deemed to be exclusive, but in addition to the powers herein enumerated or hereby implied or appropriate to the exercise of such powers, and it is intended that the municipality shall have and may exercise all powers granted to municipalities under the constitution and the laws of this state.

Section 6. The mayor and council members, and all officers of the council, who are holding office on the date of the preclearance by the United States Department of Justice of the ordinance referenced in Section 1 shall continue in office until the expiration of their current terms, but they shall be subject to and governed by the council-manager form of government under this act unless the effective date of such form of government is deferred under Section 2(ii) hereinabove, in which event they shall be subject to and governed by the previously existing form of government until the expiration of said terms.

Section 7. The council shall consist of seven council members who shall be elected by single-member districts. There shall be one mayor, and he shall be elected at large. An election for mayor and members of the council shall be held at the next regularly scheduled municipal election after the adoption of this act, and the officials elected shall take office upon the expiration of the present officials' terms of office. Regular municipal elections shall be held quadrennially thereafter under the same rules and regulations and in the same manner as provided by law. The expense of such election shall be paid by the municipality and shall be governed by the applicable general municipal election laws.

Section 8. The seven council districts shall have, as nearly as is reasonable, the same population according to the last federal

decennial census. The designation and boundaries of the districts shall be specifically described and set forth. With respect to municipalities already having seven council districts prior to the effective date of the council-manager form of government under this act, such municipalities shall continue after such effective date to have the same seven districts with the same boundaries, and any ordinance or ordinances creating such districts shall continue in full force and effect unless and until changed or repealed by the council.

Section 9. With respect to municipal elections, each candidate shall announce that he is to become a candidate for either mayor or for councilman of District 1, 2, 3, 4, 5, 6 or 7. A candidate may not run for both mayor and councilman in the same election. A candidate for mayor shall have resided in the municipality for a period of at least ninety days immediately preceding the date of regular election, and, if elected, shall continue to reside therein so long as he remains mayor. A candidate for councilman shall have resided within the district from which he seeks election for a period of at least ninety days immediately preceding the date of the regular election, and, if elected, shall continue to reside therein so long as he remains a councilman. Each voter in the election may cast one vote for a candidate for mayor and one vote for a candidate for councilman from the district in which the voter resides. Any candidate receiving a majority of the total votes cast for mayor or a majority of the total votes cast for councilman from any particular district shall be elected. In the event that no candidate receives a majority, then there shall be a runoff election for any such office to be held in a manner prescribed by the applicable general municipal election laws. The mayor and councilmen elected shall hold office for terms of four years each and shall serve until their respective successors have been elected and qualified. The mayor and councilmen may succeed themselves in office.

Section 10. The mayor and councilmen shall receive as compensation for their services the respective sums established by the council by ordinance at least six months prior to the date of their election.

Section 11. Any person desiring to become a candidate at any election for the office of mayor or councilman may become a candidate by filing a statement of candidacy as required and authorized by the applicable general municipal election laws. The candidate shall state the office to which he seeks election, and, in addition to the residency qualifications required by this act, shall have the qualifications prescribed by the applicable general municipal election laws.

Section 12. At every such election all ballots to be used by the voters shall be printed and prepared by the municipality and shall contain the names of all candidates seeking election to the

office of mayor and to the office of councilman for each of the seven council districts. The ballot shall conform, as nearly as can be, to the ballot prescribed in the applicable general municipal election laws, and the election shall be conducted as nearly as can be as prescribed by such laws.

Section 13. The mayor shall preside at the meetings of the council and shall be recognized as the head of the municipal government for all ceremonial purposes. The mayor shall have the power to veto all ordinances and resolutions of a general and permanent nature, but shall otherwise have no vote on the council. An affirmative vote of five out of seven council members shall be required to override the veto of the mayor. The mayor shall have the right to bring any matter relating to the municipality to the council for discussion and debate, and the mayor shall have the right to enter into discussion and debate of all matters brought before the council and shall be notified of all meetings of the council.

The mayor shall have the power to appoint members of boards, authorities and commissions only to the extent that such power is otherwise provided mayors in general by law. However, the mayor shall also have the power to appoint himself or, alternatively, one member to any ad hoc committee created or established by the council other than a standing committee consisting only of members of the council.

Section 14. The council shall be the governing body of the municipality and shall exercise all legislative functions of the municipality. All powers of the municipality, including all powers vested by this act, by the constitution and by the general and local laws of this state, and the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have the power to appoint and remove the city manager, to establish other administrative departments of the municipality and to promulgate rules and regulations for the operation of such departments. The council shall have the power to override any veto of the mayor relating to ordinances and resolutions of a general and permanent nature by an affirmative vote of five of the seven members.

The council shall have the power to appoint members of boards, authorities and commissions to the extent otherwise provided municipal governing bodies in general by law. The council shall also have general powers of appointment for the municipality to the extent that such powers do not conflict with any existing general or local laws of this state or this act. Subject to the mayor's power of appointment set forth in the preceding section, the council shall appoint the members of all standing and ad hoc committees created or established by the council.

At the first regular council meeting following each municipal election, the council shall elect, by majority vote of the council, its president and president pro tem. In the event of the mayor's absence from any meeting of the council, the president shall preside over the meeting. In the event of the mayor's and the president's absence from any meeting of the council, the president pro tem shall preside over the meeting. The president and president pro tem shall be full voting members of the council.

Section 15. (a) The council, by a majority vote of the whole qualified membership of the council, shall appoint a city manager who shall be an officer of the city and shall have the powers to perform the duties provided in this act. No councilman shall receive such appointment during the term for which he shall have been elected nor within one year after expiration of his term. Any civil service act which may be applicable to the municipality shall not apply to the appointment or removal of the city manager.

(b) A temporary acting city manager may be designated by the council to serve for not more than four months in the following events, but only in these events: (1) when the first council takes office after adoption of this act; or (2) following the removal of any permanent city manager.

(c) Such temporary acting city manager shall perform the duties and assume the obligations of the office of city manager and may be removed by the council at any time. If the council shall permit the temporary acting manager to serve for longer than four months, he shall become the permanent city manager.

(d) The council shall appoint the city manager for an indefinite term, and the council may remove him at any time by a majority vote of the whole qualified membership of the council.

(e) Neither the council nor any of its members shall direct or request the appointment of any person to or his removal from office by the city manager, nor shall they take part in any manner in the appointment or removal of officers and employees in administrative service to the city. Except for the purpose of inquiry, the mayor and the members of the council shall deal with the administrative services and employees only through the city manager, and neither the mayor nor any member of the council shall give orders to any subordinates of the city manager, either publicly or privately. Any mayor or member of the council violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a Class C misdemeanor. Upon conviction of a second violation of this section, the person so convicted shall forfeit his office.

Section 16. (a) The city manager shall be chosen by the council solely on the basis of his executive and administrative

qualifications with special reference to his actual experience in, or his knowledge of, accepted practice with respect to the duties of his office as hereinafter set forth. At the time of appointment, the city manager may but need not be a resident of the municipality or state, but within ninety days of the beginning of employment, he shall become a resident and shall continue to reside within the municipality during his employment.

(b) The city manager shall be the head of the administrative branch of the municipal government. He shall be responsible to the council for the proper administration of all affairs of the municipality and, subject to the provisions of any civil service or merit system law applicable to such municipality and except as otherwise provided herein, he shall have power and shall be required to:

(1) Enforce all laws and ordinances;

(2) Appoint and, when necessary, remove all officers and employees of the municipality, except as otherwise provided by this act and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office; provided that he shall not appoint or remove the officers, employees or members of:

- a. Any library board of the municipality;
- b. Any park, recreation, fair or exhibit board of the municipality;
- c. Any utilities board of the municipality, including, without limitation, electric, gas, sewer and water boards or agencies;
- d. Any school board of the municipality;
- e. Any hospital board of the municipality;
- f. Any airport board of the municipality;
- g. Any housing authority or public building authority of the municipality;
- h. Any plumbers board or electricians board of the municipality;
- i. Any planning board or commission of the municipality;
- j. Any zoning board or commission of the municipality;
- k. Any medical clinic board of the municipality;
- l. Any board of adjustment of the municipality; or
- m. Any industrial development board of the municipality;

(3) Exercise administrative supervision and control over all officers, employees, offices, departments, boards and agencies created by this act or hereafter created by the council, except for those enumerated in paragraph a. to m. of subdivision (2) inclusive set out above in this section and except those otherwise given independent

status by law, and subject to any civil service or merit system law in effect in such municipality;

(4) Keep the council fully advised as to the financial conditions and needs of the municipality; to prepare and submit a budget proposal annually to the council and be responsible for its administration after its adoption; to prepare and submit, as of the end of the fiscal year, a complete report on the financial and administrative activities of the municipality for such year;

(5) Recommend to the council such actions as he may deem desirable:

(6) Prepare and submit to the council such reports as may be required of him; and

(7) Perform such other duties as may be prescribed by this act or required of him by ordinance or by resolution of the council not inconsistent with this act.

(c) To perform his duties during his temporary absence or temporary disability, the manager may designate by letter filed with the city clerk a qualified administrative officer of the municipality. In the event of failure of the manager to make such designation, the council may by resolution appoint a qualified administrative officer of the municipality to perform the duties of the manager until he shall return or his disability shall cease.

Section 17. If the clerk of any municipality which adopts the council-manager form of government under this act holds office subject to any civil service law or merit system, such clerk shall continue to be the clerk under the council-manager form of government hereunder, and his successor shall be selected and hold office subject to the provisions of such civil service law or merit system. If the clerk of any municipality which adopts the council-manager form of government under this act does not hold office subject to any civil service law or merit system, the council shall elect the clerk by a majority vote of the whole qualified membership of the council. The clerk shall give notice of the meetings of the council and shall keep the journal of its proceedings, which shall be authenticated by his signature. He shall record in full in said journal all ordinances, resolutions and minutes of all meetings of the council. He shall perform such other duties as shall be required by this act, by legal ordinance or by the general laws of Alabama upon clerks and as to which other provisions are not made in this act. The clerk shall keep the journal open for public inspection at all reasonable times.

Section 18. The council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the council shall be open to the public to the extent required by law.

Section 19. The council shall be the judge of the election and qualifications of its members and, for the purpose of investigating such election and qualifications, shall have the power to subpoena witnesses and to require the production of records, but the decision of the council in any such case shall be subject to review by a court of competent jurisdiction.

Section 20. The council shall determine its own rules and order of business, and such rules shall be established by ordinance.

Section 21. The council shall hold regular public meetings as may be prescribed by its own rules, provided that a regular hour and day shall be fixed by the order of the council and publicly announced. It may also hold adjourned, called, special or other meetings as the business of the municipality may require. A majority of the whole qualified membership of the council shall constitute a quorum for the transaction of any and all business of the council. Except as otherwise provided herein, the affirmative vote of a majority of the quorum shall be necessary and sufficient for the passage of any resolution, rule or ordinance or the transaction of any business of any sort by the said council or the exercise of any of the powers conferred upon it by the terms of this act, but no resolution or ordinance of a general and permanent nature and no ordinance granting a franchise shall be adopted but by a vote of a majority of the whole qualified membership of the council. No resolution or ordinance granting a franchise, appropriating any money for any purpose, providing for public improvements, providing for regulation concerning the public health or otherwise of a general and permanent nature shall be enacted except at a regular public meeting of the council or an adjournment meeting thereof. Unless the council's rules of procedure theretofore adopted provide otherwise, every ordinance introduced shall be in writing and read in full before any vote thereon shall be taken and the yeas and nays shall be recorded. A record of the proceedings of every meeting of the council shall be taken and prepared by the clerk and the record of the proceedings of the meeting shall, when approved by the council, be signed by the presiding official and the clerk and entered in the journal. The journal shall be kept available for inspection by all persons at all reasonable times. No ordinance or resolution of a general and permanent nature shall be adopted by the council at the same meeting at which it is introduced unless unanimous consent of those present is given for the immediate consideration of such ordinance or resolution, with such consent to be shown by a vote taken by yeas and nays and the names of the members voting shall be entered upon the minutes of said meeting. Publication of ordinances shall be as provided in Section 11-45-8 of the Code of Alabama 1975.

Section 22. No ordinance granting to any person, firm or corporation any franchise, lease or right to use the streets, public

highways, thoroughfares or public property of the municipality shall take effect or be enforced until 30 days after final enactment of same by the council and publication of said ordinance as provided by law, which publication shall be made at the expense of the person, firm or corporation applying for said grant.

Section 23. The council may provide for the codification of its ordinances and permanent resolutions and any revisions thereof.

Section 24. The city manager shall each month make available to the council a detailed statement of all receipts and expenses of the municipality, and the council shall make available to the city manager a summary of its proceedings during the preceding month and at the end of each year. At the end of each fiscal year, the council shall cause a full and complete examination of all books and accounts of the municipality to be made by a qualified public accountant and shall cause the results of such examination to be published in pamphlet form, copies of which shall be placed in the office of the city manager, the office of clerk and in the public library to be open for inspection by all persons.

Section 25. (a) The fiscal year of the municipality shall begin on the first day of each October in each year and shall end on the last day of September. Such fiscal year shall also constitute the budget and accounting year. As used in this act, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

(b) The city manager, at least 45 days prior to the beginning of each budget year, shall submit to the council a budget proposal with explanations. The council shall adopt a budget, by ordinance, prior to the beginning of each fiscal year. The budget so adopted shall be a public record and shall be available for inspection by the general public. Any changes in the budget during the course of the budget year shall be made by ordinance.

Section 26. (a) The council may establish, by ordinance, the office of municipal treasurer and shall assign to such office the duties and responsibilities which it deems necessary. The treasurer shall be the custodian of the funds of the municipality, shall keep an accurate record of the funds of the several departments and shall keep books accurately reflecting the financial condition of the municipality. The appointment of a person as treasurer shall require a majority vote of the whole qualified membership of the council.

(b) The duties of the treasurer may, by ordinance, be assigned to the city clerk and if such duties are assigned, such officer shall be known as the clerk-treasurer of the municipality.

Section 27. The council shall prescribe, by ordinance, the method of paying out funds of the municipality. Checks and warrants

shall be signed by at least two officers of the municipality who shall be designated by the council by ordinance. All funds of the municipality shall be deposited in such depositories as may be designated by resolution of the council.

Section 28. Whenever there shall be a change in the population of any of the council districts according to the federal decennial census of population published following the last federal decennial census of population preceding the adoption of this act, or by virtue of a substantial change in the corporate limits, there shall be a reapportionment of the council districts in the manner hereinafter provided:

(a) The manager shall within six months after the publication of each federal decennial census of population for the municipality, following the last federal decennial census of population preceding the adoption of this act, or within six months after any substantial change in the corporate limits of the municipality, file with the council a report containing a recommended plan for reapportionment of the council district boundaries to comply with the following specifications:

(1) Each district shall be formed of contiguous and, to the extent reasonably possible, compact territory, and its boundary lines shall be the center lines of streets or other well-defined boundaries; and

(2) Each district shall contain as nearly as is possible the same population;

(b) The council shall enact a redistricting ordinance within six months after receiving such report. If the council fails to enact the redistricting ordinance within the said six months, the redistricting plan submitted by the manager shall become effective without enactment by the council, as if it were a duly enacted ordinance;

(c) Such redistricting ordinance shall not apply nor be effective until the next regularly scheduled municipal election thereafter as provided by state law. No incumbent councilman shall be deprived of his unexpired term of office because of such redistricting.

Section 29. Nothing in this act, except as may otherwise be specifically provided herein, shall affect or impair the rights and privileges of the officers and employees of the municipality, or any department, board or agency thereof, as those rights and privileges relate to, among other things, matters of personnel, appointment, rank, grade, tenure of office, promotion, removal, pension rights, retirement rights and civil rights.

Section 30. All persons holding any administrative office on the date that the council-manager form of government under this

act is made effective shall continue in office and in the performance of their respective duties until different provision shall be made for the performance of such duties or until the discontinuance of such office. The powers conferred and the duties imposed upon any office, department, board or agency of the municipality by the laws of the state shall, if such office, department, board or agency be abolished by this act or under its authority, be thereafter exercised and discharged by the office, department, board or agency designated by the council unless otherwise provided herein or by law.

Section 31. Any person holding an office or position in the civil service of the municipality under any civil service law or merit system applicable to the municipality when the council-manager form of government under this act shall be made effective shall continue to hold such office in the civil service of the municipality under such form of government and with the same status, rights and privileges and subject to the same conditions under the applicable civil service law or merit system.

Section 32. If the powers and duties of any office, department, board or agency of the municipality are by this act assigned to another office, department, board or agency, then all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department, board or agency to which such powers and duties are so assigned.

Section 33. Any office, department, board or agency provided for in this act with a name or with powers and duties which are the same or substantially the same as those of any office, department, board or agency heretofore existing shall continue to exercise its powers and duties, unless and until otherwise provided. Any provision of law, rule, regulation, contract, grant or other right relating to any such formerly existing office, department, board or agency shall, so far as not inconsistent with the provisions of this act, apply to any office, department, board or agency provided for herein.

Section 34. All contracts and other obligations entered into by the municipality, or for its benefit, prior to the adoption by the municipality of the council-manager form of government under this act shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time the council-manager form of government under this act is made effective shall be carried to completion in accordance with the provisions of such existing laws.

Section 35. No action or proceeding, civil or criminal, pending at the time of the adoption of the council-manager form of government under this act, brought by or against the municipality or any office,

department, board or agency thereof, shall be affected or abated by the adoption of the council-manager form of government under this act or by anything herein contained in this act.

Section 36. All laws relating to any school board, library board, hospital board, airport board, housing authority, plumbers or electricians board, planning board or commission, zoning board, board of adjustment, park or recreation board, industrial development board, medical clinic board, utilities board or any municipally-owned service enterprise, including, without limitation, electric, gas, sewer and water boards or agencies, and to any board, authority or agency having independent status, which may apply at the time the council-manager form of government under this act is made effective, shall continue in full force and effect and without interruption or change as to the establishment or conduct of any such authority, board or agency, unless and until otherwise provided by law.

Section 37. All ordinances and resolutions of the municipality in effect at the time of the adoption of the council-manager form of government under this act shall continue in effect unless and until changed or repealed by the council.

Section 38. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to, any municipal position or appointed municipal administrative office because of race, sex, political or religious opinions or affiliations.

Section 39. The city manager, the directors of all departments and such other officers of the municipality as may be designated by the council shall be entitled to attend meetings of the council, but they shall have no vote thereon. The city manager shall have the right to take part in the discussions of all matters coming before the council, and the directors and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments, boards or agencies. The city manager shall be notified of all council meetings.

Section 40. The council and the city manager, or any person or committee authorized by either of them, shall have the power to inquire into the conduct of any office, department, board, commission, agency or officer of the municipality. Either of them may make investigations of municipal affairs and may compel the production of books, papers and other evidence for that purpose.

Section 41. No contract involving the payment of money out of the appropriation of more than one year shall be made for a period of more than five years, nor shall any such contract be valid unless made or approved by ordinance and signed in the name of the municipality by the mayor and countersigned by the city manager.

Section 42. The city manager, and other officers or employees whom the council may by ordinance require, shall give bond in such amount, for such matters and with such surety as may be approved by the council. The premiums on such bonds shall be paid by the municipality.

Section 43. The mayor and every councilman, officer and employee of the municipality shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the clerk:

"I solemnly swear (or affirm) that I am eligible for the office of _____ and will execute the duties of same according to the best of my ability, and that I will support the constitutions and will obey the laws of the United States and of the State of Alabama; that I will, in all respects, observe the provisions of the ordinances of the city of _____ and will faithfully discharge the duties of the office of _____."

Section 44. Between October 1, 1991, and March 31, 1992, any municipality adopting the council-manager form of government under this act, regardless of which effective date is chosen in the ordinance referenced in Section 1, shall conduct a referendum for the purpose of determining whether after the first Monday in October following the next regularly scheduled municipal election, the municipality shall operate under the council-manager form of government as prescribed herein or, in the alternative, under the mayor-council form of government as set forth in Section 11-43-1 et seq. of the Code of Alabama 1975. The council shall give advance notice of the time and purpose of such referendum by publication once each week for four consecutive weeks in a newspaper of general circulation in the municipality. All qualified electors of the municipality may participate in said referendum and the questions to be decided shall be plainly printed upon the ballot. The referendum shall be conducted, the expenses paid, the votes canvassed and the results declared in the same manner as provided by the applicable general municipal election laws, unless otherwise provided herein. The form of government for which the majority of votes are cast shall thereafter be adopted by the municipality as its form of government at the time and in the manner prescribed herein. Within five days of the declaration of the referendum results, the city clerk shall transmit to the governor, to the secretary of state and to the judge of probate of the county in which the municipality is located, a certificate setting forth such results.

Section 45. At such referendum, the proposition to be submitted shall be printed in plain prominent type on ballots separate

and distinct from ballots used for any other office or question and shall read as follows:

“Check one of the following:

(1) The City of _____ shall adopt and operate under the council-manager form of government pursuant to the ‘Council-Manager Act of 1991.’

Yes ().

or

(2) The City of _____ shall adopt and operate under the mayor-council form of government pursuant to Section 11-43-1 et seq. of the Code of Alabama 1975.

Yes ().”

The voter shall mark his ballot with a cross mark (X) after the proposition which expresses his choice. If voting machines are used at any voting place in such election, the above propositions may, at the discretion of the election commission or other body or official having charge of the conduct of municipal elections, be submitted as separate propositions on voting machines so used.

Section 46. If the majority of votes are in favor of the council-manager form of government, then the council-manager form of government under this act shall, without further action, be adopted (or continued, if then currently in effect) by the municipality on the first Monday in October following the next regularly scheduled municipal election. If the majority of votes are in favor of the mayor-council form of government, then the mayor-council form of government as prescribed in Section 11-43-1 et seq. of the Code of Alabama 1975, shall, without further action, be adopted by the municipality on the first Monday in October following the next regularly scheduled municipal election, and this act shall no longer apply. If the mayor-council form of government is so adopted, then municipalities having a council elected from seven single-member districts shall continue to have seven districts with the same boundaries. Under such circumstances, there shall be no need for such municipality to adopt a separate ordinance as contemplated by Section 11-43-63 of the Code of Alabama 1975.

Section 47. All laws and parts of laws, general, local or special, relating to or affecting such municipality, its powers, functions, duties, corporate limits or property, which are in force when this act shall take effect are hereby continued in effect; but all laws and parts of laws relating to the powers, functions and duties under any prior form of government shall be superseded to the extent that the same apply to any municipality electing to come within the provisions of this act and are inconsistent with the provisions of this act.

Section 48. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 49. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:25 P.M.

Act No. 91-546

H. 596 — Reps. Penry, Harper, McMillan,
Carter, Rockhold

AN ACT

To further provide for the tax exemptions on certain ships and vessels and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard licensed by the State of Alabama Department of Conservation and Natural Resources; to amend sections 40-23-2, 40-23-4, 40-23-61 and 40-23-62 of the Code of Alabama 1975, as amended, relating to exemptions from sales and use taxation, generally; excise tax on the storage, use or other consumption of certain tangible personal property and exemptions therefrom; to repeal any conflicting laws, rules or regulations; and to make the provisions retroactively effective.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 40-23-2, 40-23-4, 40-23-61 and 40-23-62 of the Code of Alabama 1975, as amended, are hereby amended to read as follows:

“§40-23-2.

“There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

“(1) Upon every person, firm, or corporation, (including the state of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within this state, in the business of selling at retail any tangible

personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships, other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), an amount equal to four percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business.

Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however, this provision shall not be construed to include batteries.

(2) Upon every person, firm or corporation engaged or continuing within this state in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a municipal institution, or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the state of Alabama, an amount equal to four percent of the gross receipts of any such business.

(3) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail machines

used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to one and one-half percent of the gross proceeds of the sale of such machines; provided, that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(4) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto an amount equal to two percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subdivision withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of \$5.00 per year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be of such withdrawal and shall run for the 12 succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers that will be registered or titled outside Alabama, that are exported or removed from Alabama within 72 hours by the purchaser or his agent for first use outside Alabama are not subject to the Alabama sales tax. Sales of other vehicles such as mobile homes, motor bikes, all terrain vehicles, and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of Alabama or to a common carrier for transportation

outside Alabama. In order for the sale to be exempt from Alabama tax, the information relative to the exempt sale must be documented on forms approved by the revenue department.

Of the total \$.02 tax on each dollar of sale provided hereunder, \$.015 or 75 percent of the total tax generated by this paragraph (4) shall be deposited to the credit of the Alabama special educational trust fund; and \$.005, or 25 percent of the total tax generated by this paragraph (4) shall be deposited to the credit of the state general fund.

(5) Upon every person, firm or corporation engaged or continuing within this state in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to three percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of such business."

"§40-23-4.

"(a) There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed or payable under this division the following:

"(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor's plant within this state and transports it out-of-state, which are otherwise taxed.

"(2) The gross proceeds of the sale, or sales, of fertilizer. The word 'fertilizer' shall not be construed to include cottonseed meal, when not in combination with other materials.

"(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

"(4) The gross proceeds of sales of insecticides and fungicides and feed for livestock and poultry, but not including prepared food for dogs and cats.

"(5) The gross proceeds of sales of all livestock by whomsoever sold, and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or

sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under the provisions of sections 40-21-50, 40-21-53 and 40-21-56 through 40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

“(8) The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(9) The gross proceeds of the sale, or sales of wood residue, coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

“(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships, vessels, towing vessels, or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, or other watercraft (herein for purposes of this exemption being referred to as ‘vessels’) engaged in foreign or international commerce or in interstate commerce; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the

painting, repair or reconditioning of vessels, barges, ships, other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources.

“For purposes of this subdivision, it shall be presumed that vessels engaged in the transportation of cargo between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states are engaged in foreign or international commerce or interstate commerce, as the case may be. For the purposes of this subdivision, the engaging in foreign or international commerce or interstate commerce shall not require that the vessel involved deliver cargo to or receive cargo from a port in the state of Alabama. For purposes of this subdivision, vessels carrying passengers for hire, and no cargo, between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states shall be engaged in foreign or international commerce or interstate commerce, as the case may be, if, and only if, both of the following conditions are met: (i) the vessel in question is a vessel of at least 100 gross tons; and (ii) the vessel in question has an unexpired certificate of inspection issued by the United States Coast Guard or by the proper authority of a foreign country for a foreign vessel, which certificate is recognized as acceptable under the laws of the United States. Vessels which are engaged in foreign or international commerce or interstate commerce shall be deemed for the purposes of this subdivision to remain in such commerce while awaiting or under repair in a port of the state of Alabama if such vessel returns after such repairs are completed to engaging in foreign or international commerce or interstate commerce. For purposes of this subdivision, seismic or geophysical vessels which are engaged either in seismic or geophysical tests or evaluations exclusively in offshore federal waters or in traveling to or from conducting such tests or evaluations shall be deemed to be engaged in international or foreign commerce. For purposes of this subdivision, proof that fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce may be accomplished by the merchant or seller securing the duly signed certificate of the vessel owner, operator or captain or their respective agent on a form prescribed by the department that the fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce. Any person filing a false certificate shall be guilty of a misdemeanor and upon conviction shall be fined not less than

\$25.00 nor more than \$500.00 for each offense. Each false certificate filed shall constitute a separate offense. Any person filing a false certificate shall be liable to the department for all taxes imposed by this division upon the merchant or seller, together with any interest or penalties thereon, by reason of the sale or sales of fuel and supplies applicable to such false certificate. If a merchant or seller of fuel and supplies secures the certificate herein mentioned, properly completed, such merchant or seller shall not be liable for the taxes imposed by this division, if such merchant or seller had no knowledge that such certificate was false when it was filed with such merchant or seller.

“(11) The gross proceeds of sales of tangible personal property to the state of Alabama, to the counties within the state and to incorporated municipalities of the state of Alabama.

“(12) The gross proceeds of the sale or sales of railroad cars, and vessels, barges and commercial fishing vessels of over five (5) tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources, when sold by the manufacturers or builders thereof.

“(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which, at any time, enter into and become a component part of ships, vessels, towing vessels or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources.

“(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

“(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipalities of the state of Alabama.

“(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof or materials for use therein, acquired primarily for the control, reduction or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction or elimination of air and water pollution.

"(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the constitution of this state.

"(18) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this division or under any county sales tax law.

"(19) The gross proceeds received from the sale or furnishing of food, including potato chips, candy, fruit and similar items, soft drinks, tobacco products and stationery and other similar or related articles by hospital canteens operated by Alabama state hospitals at Bryce hospital and Partlow state school for mental deficients at Tuscaloosa, Alabama, and Searcy hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

"(20) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer or seller of such poultry or poultry products, including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry or poultry products.

"(21) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines or medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis, livestock and poultry. Such exemption herein granted shall be in addition to exemptions now provided by law for feed for fish raised to be sold on a commercial basis, livestock and poultry, but not including prepared foods for dogs or cats.

"(22) The gross proceeds of the sale, or sales, of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or the use of plants, seedlings, shoots, slips, nursery stock and floral products, except as hereinabove exempted.

"(23) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enters into and becomes a component part of such fabricated steel tube sections of said tunnel.

"(24) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general public for an admission charge. The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

"(25) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term 'herbicides,' as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and desiccant herbicides.

"(26) The Alabama chapter of the cystic fibrosis research foundation and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed or payable.

"(27) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

"The words 'commercial fishing vessels' shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

"(28) The gross proceeds of sales of sawdust, wood shavings, wood chips and other like materials sold for use as 'chicken litter' by poultry producers and poultry processors.

“(29) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry by whomsoever sold. Such exemption as herein granted shall be in addition to the exemption provided by law for feed for fish, livestock and poultry, and in the addition to the exemptions provided by law for the above-enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feed.

“(30) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division or under any county or municipal sales tax law. The exemption provided in this section shall not apply to any medicine purchased in any manner other than as is herein provided.

“For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

“a. The name and claim number as shown on a ‘Medicare’ card issued by the United States social security administration.

“b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

“(31) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition of preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed to exempt sales of sod by a person engaged in the business of selling plants, seedlings, nursery stock or floral products.

“(32) The gross receipts of sales of the following items or materials which are necessary in the farm-to-market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: twine for tying tomatoes, tomato

stakes, field boxes (wooden boxes used to take tomatoes from the fields to shed) and tomato boxes used in shipments to customers.

“(33) The gross proceeds from the sale of liquefied petroleum gas sold to be used for agricultural purposes.

“(34) The gross receipts of sales from state nurseries of forest tree seedlings.

“(35) The gross receipts of sales of forest tree seed by the state.

“(36) The gross receipts of sales of *Lespedeza bicolor* and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state.

“(37) The gross receipts of any aircraft manufactured, sold and delivered in this state if said aircraft are not permanently domiciled in Alabama and are removed to another state within three days of delivery.

“(38) The gross proceeds from the sale or sales of all diesel fuel used for off-highway agricultural purposes.

“(39) The gross proceeds from sales of admissions to any sporting event which:

“a. takes place in the state of Alabama on or after January 1, 1984, regardless of when such sales occur; and

“b. is hosted by a not-for-profit corporation organized and existing under the laws of the state of Alabama; and

commerce for transporting people or property by air. For the purpose of this subdivision, the words ‘hub operation within this state’ shall be construed to have all of the following criteria:

“a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

“b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

“(42) The gross proceeds of the sale or sales of the following:

“a. Drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

“b. Tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"c. Fuel and supplies for use or consumption aboard boats, ships, aircraft and towing vessels when used exclusively in transporting persons or property between a point in Alabama and a point or points in offshore federal waters for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"d. Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state and that is, on completion, removed forthwith from this state.

"The delivery of items exempted by this subdivision to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

"The shipment to a place in this state of equipment exempted by this subdivision for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on completion of the further assembly or fabrication the equipment is removed forthwith from this state. This subdivision applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from this state.

"(43) The gross receipts derived from all bingo games and operations which are conducted in compliance with validly enacted legislation authorizing the conduct of such games and operations, and which comply with the distribution requirements of the applicable local laws; provided that the exemption from sales taxation granted by this subdivision shall apply only to gross receipts taxable under section 40-23-2(2). It is further provided that this exemption shall not apply to any gross receipts from the sale of tangible personal property, such as concessions, novelties, food, beverages, etc. The exemption provided for in this section shall be limited to those games and operations by organizations which have qualified for exemption under the provisions of 26 U.S.C. §501 (c) (3), (4), (7), (8), (10), or (19), or which are defined in 26 U.S.C. §501 (d).

"(b) Any violation of any provision of this section shall be punishable in a court of competent jurisdiction by a fine of not less than \$500.00 and no more than \$2,000.00 and imprisonment of not less than six months nor more than one year in the county jail."

"§40-23-61.

"(a) An excise tax is hereby imposed on the storage, use or other consumption in this state of tangible personal property, not

including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships, other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources, purchased at retail on or after October 1, 1965, for storage, use or other consumption in this state at the rate of four percent of the sales price of such property or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the department of revenue's suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected, whichever is less, except as provided in subsections (b) and (c) of this section.

“(b) An excise tax is hereby imposed on the storage, use or other consumption in this state of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, purchased at retail on or after October 1, 1965, at the rate of one and one-half percent of the sales price of any such machine or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the department of revenue's suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected, whichever is less; provided, that the term ‘machine,’ as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(c) An excise tax is hereby imposed on the storage, use or other consumption in this state of any automotive vehicle or truck trailer, semitrailer or house trailer, and mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto, purchased at retail on or after October 1, 1965, for storage, use or other consumption in this state at the rate of two percent of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer, and mobile home set-up materials and supplies as specified above, or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the department of revenue's suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or

tax collected, whichever is less. Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“Of the total \$.02 tax on each dollar of sale provided hereunder, \$.015 or 75 percent of the total tax generated by this subsection shall be deposited to the credit of the Alabama special educational trust fund; and \$.005, or 25 percent of the total tax generated by this subsection shall be deposited to the credit of the state general fund.

“(d) Every person storing, using or otherwise consuming in this state tangible personal property purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this state; provided, that a receipt from a retailer maintaining a place of business in this state or a retailer authorized by the department, under such rules and regulations as it may prescribe, to collect the tax imposed hereby and who shall for the purpose of this article be regarded as a retailer maintaining a place of business in this state, given to the purchaser in accordance with the provisions of section 40-23-67, shall be sufficient to relieve the purchaser from further liability for tax to which such receipt may refer.

“(e) An excise tax is hereby imposed on the classes of tangible personal property, and at the rates imposed on such classes, specified in subsections (a), (b) and (c) of this section, on the storage, use or other consumption in the performance of a contract in this state of any such tangible personal property, new or used, the tax to be measured by the sales price of the fair and reasonable market value of such tangible personal property when put into use in this state, whichever is less; provided, that the tax imposed by this subsection shall not apply where the taxes imposed by subsections (a), (b) or (c) of this section apply.”

“§40-23-62.

“The storage, use or other consumption in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this article:

“(1) Property, the gross proceeds of sales of which are required to be included in the measure of the tax imposed by the provisions of article 1 of this chapter.

“(2) Property, the storage, use or other consumption of which this state is prohibited from taxing under the constitution or laws

of the United States of America or under the constitution of this state.

“(3) Tangible personal property, not to be used in the performance of a contract, brought into this state by a nonresident thereof for his own storage, use or consumption while temporarily within this state.

“(4) Lubricating oil and gasoline as defined in sections 40-17-30 and 40-17-170, the storage, use or other consumption of which is otherwise taxed.

“(5) All fertilizer; provided, that the word ‘fertilizer’ as used in this article shall not be construed to include cottonseed meal when not in combination with other material.

“(6) All seeds for planting purposes and baby chicks and poults; provided, that nothing herein shall be construed to exempt plants, seedlings, nursery stock or floral products.

“(7) Insecticides and fungicides and feed for livestock and poultry, but not including prepared foods for dogs and cats.

“(8) The use, storage or consumption of all livestock by whomsoever sold; and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(9) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(10) Transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(11) Coal or coke to be stored, used or consumed by manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products or the generation of heat or power used:

“a. In manufacturing tangible personal property for sale;

“b. For the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale; or

“c. For the generation of motive power for transportation.

“(12) Fuel and supplies for use or consumption aboard ships, vessels, towing vessels, or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, or other watercraft (herein for purposes of this exemption being referred to as ‘vessels’) engaged in foreign or international commerce or in interstate commerce; provided, that nothing in this article shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships, other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources. For purposes of this subdivision, it shall be presumed that vessels engaged in the transportation of cargo between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states are engaged in foreign or international commerce or interstate commerce, as the case may be. For the purposes of this subdivision, the engaging in foreign or international commerce or interstate commerce shall not require that the vessel involved deliver cargo to or receive cargo from a port in the state of Alabama. For purposes of this subdivision, vessels carrying passengers for hire, and no cargo, between ports in the state of Alabama and ports in foreign countries or possessions or territories of the United States or between ports in the state of Alabama and ports in other states shall be engaged in foreign or international commerce or interstate commerce, as the case may be, if, and only if, both of the following conditions are met: (i) the vessel in question is a vessel of at least 100 gross tons; and (ii) the vessel in question has an unexpired certificate of inspection issued by the United States Coast Guard or by the proper authority of a foreign country for a foreign vessel, which certificate is recognized as acceptable under the laws of the United States. Vessels which are engaged in foreign or international commerce or interstate commerce shall be deemed for the purposes of this subdivision to remain in such commerce while awaiting or under repair in a port of the state of Alabama if such vessel returns after such repairs are completed to engaging in foreign or international commerce or interstate commerce. For purposes of this subdivision, seismic or geophysical vessels which are engaged either in seismic or geophysical tests or evaluations exclusively in offshore federal waters or in traveling to or from conducting such tests or evaluations shall be deemed to be engaged in international or foreign commerce. For purposes of this subdivision, proof that fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce may be accomplished by the merchant or seller securing the duly signed

certificate of the vessel owner, operator or captain or their respective agent on a form prescribed by the department that the fuel and supplies purchased are for use or consumption aboard vessels engaged in foreign or international commerce or in interstate commerce. Any person filing a false certificate shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$500.00 for each offense. Each false certificate filed shall constitute a separate offense. Any person filing a false certificate shall be liable to the department for all taxes imposed by this division upon the merchant or seller, together with any interest or penalties thereon, by reason of the sale or sales of fuel and supplies applicable to such false certificate. If a merchant or seller of fuel and supplies secures the certificate herein mentioned, properly completed, such merchant or seller shall not be liable for the taxes imposed by this division, if such merchant or seller had no knowledge that such certificate was false when it was filed with such merchant or seller.

“(13) Property stored, used or consumed by the state of Alabama, by the counties within the state or by incorporated municipalities of the state of Alabama.

“(14) The use, storage or consumption of materials, equipment and machinery which, at any time, enter into and become a component part of ships, vessels, towing vessels or barges, or drilling ships, rigs or barges, or seismic or geophysical vessels, other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources.

“(15) The use, storage or consumption of fuel oil purchased as fuel for kilns used in manufacturing establishments.

“(16) Tangible personal property stored, used or consumed by county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipality of the state of Alabama.

“(17) The storage, use or consumption of railroad cars, vessels, and barges and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources when purchased from the manufacturers or builders thereof.

“(18) The storage, use or consumption of all devices or facilities, and all identifiable components thereof or materials for use therein, used or placed in operation primarily for the control, reduction or elimination of air or water pollution, and the storage,

use or consumption of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction or elimination of air or water pollution.

“(19) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property required pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this article, or under any county use tax law.

“(20) The storage, use or other consumption in this state of religious magazines and publications. For the purpose of this subdivision the words ‘religious magazines and publications’ shall be construed to mean printed or illustrated lessons, notes and explanations distributed by churches or other religious organizations free of charge to pupils or students in Sunday schools, Bible classes or other educational facilities established and maintained by churches or similar religious organizations in this state.

“(21) The storage, use or other consumption of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment or sale by the producer, processor, packer or seller of such poultry or poultry products including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry or poultry products.

“(22) The storage, use or other consumption of all antibiotics, hormones and hormone preparations, drugs, medicines or medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for livestock and poultry. Such exemption herein granted shall be in addition to exemptions now provided by law for feed for livestock and poultry, but not including prepared foods for dogs and cats.

“(23) The use of seedlings, plants, shoots, and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the use of plants, seedlings, shoots, slips, nursery stock and floral products except as hereinabove exempted.

“(24) Fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation, for any vehicular tunnel for highway vehicular traffic, when sold by the

manufacturer or fabricator thereof, and also steel which enters into and becomes a component part of such fabricated steel tube sections of said tunnel, shall be exempted from the provisions of this article and from the computation of the amount of the tax levied, assessed or payable under this article.

“(25) The storage, use or other consumption of herbicides for agricultural uses by whomsoever sold. The term ‘herbicides’ as used in this subdivision means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and desiccant herbicides.

“(26) The Alabama chapter of the cystic fibrosis research foundation, and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the payment of the state use tax levied under this article.

“(27) Fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the payment of the state use tax levied under this article, or levied under any county or municipal use tax law.

“The words ‘commercial fishing vessels’ shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

“(28) The storage, use or withdrawal of sawdust, wood shavings, wood chips and other like materials purchased for use as ‘chicken litter’ by poultry producers and poultry processors shall be exempt under this article.

“(29) The storage, use or other consumption of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry are hereby specifically exempted from the payment of the state use tax levied by this article. Such exemption as herein granted shall be in addition to the exemptions now provided by law for feed for fish, livestock and poultry, and in addition to the exemptions now provided by law for the above-enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feeds.

“(30) All medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled

by licensed pharmacists, shall be exempted from the operation of the state use tax law levied by this article, or by any county or municipal use tax law. The exemptions provided in this subdivision shall not apply to any medicine purchased in any manner other than as is herein provided.

“For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

“a. The name and claim number as shown on a ‘Medicare’ card issued by the United States social security administration.

“b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“For the purposes of this subdivision any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

“(31) All diesel fuel used for off-highway agricultural purposes.

“(32) The storage, use or other consumption of any aircraft and replacement parts, components, systems, supplies and sundries affixed or used on said aircraft and ground support equipment and vehicles used by or for the aircraft by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words ‘hub operation within this state’ shall be construed to have all of the following criteria:

“a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

“b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

“(33) The storage, use or other consumption of hot or cold food and beverage products by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words ‘hub operation within this state’ shall be construed to have all of the following criteria:

"a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

"b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

"(34) The storage, use or other consumption of the following:

"a. Drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"b. Tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"c. Fuel and supplies for use or consumption aboard boats, ships, aircraft and towing vessels when used exclusively in transporting persons or property between a point in Alabama and a point or points in offshore federal waters for the exploration for or production of oil, gas, sulphur, or other minerals in offshore federal waters.

"d. Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state and that is, on completion, removed forthwith from this state.

"The delivery of items exempted by this subdivision to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

"The shipment to a place in this state of equipment exempted by this subdivision for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on completion of the further assembly or fabrication the equipment is removed forthwith from this state. This subdivision applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from this state."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. It is specifically provided that any rules or regulations or any laws or parts of laws in conflict with this act are hereby repealed.

Section 4. This act is effective retroactively to August 1, 1987.

Approved July 29, 1991

Time: 6:30 P.M.

Act No. 91-547

H. 319 — Rep. Box

AN ACT

Provides for the appointment of a private non-profit corporation by the courts to serve as guardian or conservator or both for persons who are developmentally disabled. Establishes further qualifications for such organizations to be appointed and designates the Alabama Department of Mental Health/Mental Retardation to develop guidelines for the activities of those corporations appointed as Guardian for a person with developmental disabilities.

Be It Enacted by the Legislature of Alabama:

Section 1. The term “developmentally disabled” means a person whose impairment of general intellectual functioning or adaptive behavior which is manifested before the person attains the age of twenty-two (22) and results in mental retardation, cerebral palsy, epilepsy or autism and as defined in Public Law 98-527, the Developmental Disabilities Assistance and Bill of Rights Act (Section 102 (7)).

Section 2. A private non-profit corporation organized under the laws of Alabama and qualified under the Internal Revenue Code as a 501(c)(3) tax exempt corporation as described herein is qualified for designation as guardian for persons with developmental disabilities and who has been determined by the probate court to need some degree of guardianship; provided that those corporations qualifying under this act shall be governed by a board of directors which shall have no fewer than thirty five (35) percent of its membership representing parents or siblings of persons with developmental disabilities. Further such corporation shall be established in perpetuity to provide a lifetime of service to those persons placed under their care. In no case shall a corporation appointed under this act engage in providing direct or indirect services to the wards/protective persons under its care or take any other action that could be considered a conflict of interest.

Section 3. The Alabama Department of Mental Health and Mental Retardation shall assist the courts in their implementation of this act and shall develop guidelines for the provision of guardianship services by corporations appointed under this act.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not effect the part which remain.

Section 5. All laws or parts of law which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 29, 1991

Time: 6:40 P.M.

Act No. 91-548

H. 95 — Rep. Campbell

AN ACT

To amend Sections 22-21-20 and 22-21-27 of the Code of Alabama 1975, relating to licensing of hospitals, nursing homes and other health care institutions so as to include hospices; and to provide further for the composition of the advisory board and the power of certain board members.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 22-21-20 and 22-21-27 of the Code of Alabama 1975, are hereby amended to read as follows:

“§22-21-20.

“For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

“(1) HOSPITALS. General and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease, surgical or obstetrical care. Also included within the term are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, homes for the aged, domiciliary care facilities and related health care institutions when such institution is primarily engaged in

offering room, board, laundry and personal assistance with activities of daily living and incidentals thereto. The term 'hospitals' relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. This section shall not apply to county or district health departments.

"(2) PERSON. Such term includes individuals, partnerships, corporations and associations."

"§22-21-27.

"(a) There shall be an advisory board of 12 members to assist in the establishment of rules, regulations and standards necessary to carry out the provisions of this article and to serve as consultants to the state health officer. The board shall meet at least twice each year and at the call of the state health officer. The members of the board shall annually elect one of its members to serve as chairman.

"(b) The advisory board shall be constituted in the following manner:

"(1) Four representatives of hospitals, who shall be appointed by the board of trustees of the Alabama hospital association as follows:

- "a. One administrator of a governmental hospital;
- "b. One administrator of a nongovernmental nonprofit hospital;
- "c. One owner or administrator of a proprietary hospital; and
- "d. One member of a managing board of a nonprofit hospital;

"(2) Three representatives who shall be doctors of medicine appointed by the board of censors of the Alabama state medical association;

"(3) One representative who shall be a registered nurse appointed by the executive board of the Alabama state nurses association;

"(4) One representative from the state board of human resources to be appointed by the board;

"(5) One registered pharmacist actively engaged in the practices of pharmacy in the state of Alabama, to be appointed by the Alabama state board of pharmacy;

"(6) One member of the advisory board shall be appointed by the executive committee of the Alabama nursing home association, who shall be the operator of a duly qualified licensed nursing home; and

“(7) One member shall be appointed by the Alabama hospice association and said person shall vote only on issues relating to hospices.

“Of the original representatives appointed by the board of trustees of the Alabama hospital association, one shall serve for three years, two shall serve for four years, and one shall serve for five years. One of the representatives appointed by the board of censors of the Alabama state medical association shall serve for two years, one shall serve for three years, and one shall serve for five years. The one representative appointed by the Alabama state nurses association shall serve for four years. The one representative from the state board of human resources shall serve for four years, and the one representative from the state board of pharmacy shall serve for four years. The representative appointed by the executive committee of the Alabama nursing home association shall serve for five years. Thereafter, each new appointee shall serve for five years or until his successor is appointed; except, that in the case of a vacancy, the appointee shall serve for the remainder of the unexpired term. Any vacancy shall be filled by the original organization selecting said member.

“(c) Members of the advisory board shall not be eligible to succeed themselves after they have served one full five-year term, but shall be eligible for reappointment if they have not served immediately preceding their reappointment.

“(d) Members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office pursuant to article 2 of chapter 7 of Title 36.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:41 P.M.

Act No. 91-549

H. 146 — Rep. Zoghby

AN ACT

Relating to motor vehicles so as to provide that a transaction does not create a sale or security interest merely because the transaction provides that the rental price may be adjusted by reference to the amount realized upon sale or other

disposition of the motor vehicle; to provide for severability of the provisions of this act; to provide for repeal of conflicting laws; and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In the case of motor vehicles as defined in Section 32-8-2(10), notwithstanding any other provision of law, a transaction does not create a sale or security interest merely because the transaction provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:42 P.M.

Act No. 91-550

H. 458 — Rep. McMillan

AN ACT

To amend further Section 11-3-4, Code of Alabama 1975, relating to the compensation of county commissioners, so as to change the amount allowed for mileage to the amount allowed by the internal revenue code for income tax deductions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-3-4, Code of Alabama 1975, is hereby amended further to read as follows:

“§11-3-4.

“(a) Unless otherwise provided by local law, each member of the county commission shall be paid for his services the sum of \$4.00 per day while occupied in the discharge of his duties as such member of the county commission and the mileage rate allowed by the internal revenue code for income tax deduction in performing the duties of the office of county commissioner, and the sum of \$4.00 per day while occupied in the discharge of his duties in letting out,

inspecting and accepting, building or repairing any of the county bridges or county buildings, roads or works and the mileage rate allowed by the internal revenue code for income tax deduction for each mile necessarily traveled by him in so doing, said sums to be paid on warrants drawn on the county treasury on the order of the county commission. No allowance shall be made to any commissioner for per diem or mileage for inspecting roads, bridges, etc., except when acting under authority of an order by the county commission previously made. The per diem and mileage of such member for services rendered when letting out, inspecting and accepting, building or repairing any of the county bridges, roads or works shall be paid out of any money in the county treasury which shall be designated and set apart by the county commission for the payment thereof; provided, that this section shall not operate to repeal any local law affecting any county with respect to the matters contained in this section; provided further, however, that any other provisions of any general, special or local law to the contrary notwithstanding, in the discretion of the county commission the said per diem and mileage may be paid out of the county gasoline tax revenues when said per diem or mileage is incurred by a member while occupied in the discharge of his duties in inspecting, accepting, building, repairing or supervising any of the county roads or bridges.

“(b) All expense and/or travel allowance payable to a county commissioner as provided by any local law or general law of local application existing on the effective date of this subsection shall be from that date deemed to constitute salary compensation for all purposes and the same shall continue to be paid thereafter as salary compensation. Provided, however, such expense and/or travel allowance for any incumbent commissioner shall, at the election of such commissioner, not be deemed salary compensation but shall continue to be deemed expense and/or travel allowance until such time as that commissioner shall vacate office and shall thereafter be deemed to constitute salary compensation. Such election shall be in writing; filed with the county commission to which such commissioner has been elected no later than 30 days prior to the commencement of that commissioner’s next term of office; and spread upon the minutes of such county commission. Provided, further, travel reimbursement based on number of miles traveled and/or actual expenses incurred shall not be deemed to constitute salary compensation under the provisions of this subsection.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:43 P.M.

Act No. 91-551

H. 953 — Rep. Richardson

AN ACT

To provide that each public corporation which is authorized by law to operate a water system and to borrow money for use for one or more of its corporate purposes shall be specifically authorized to sell and issue bonds of such public corporations; to specify the use of proceeds of such bonds and the source of payment thereof; to make certain provisions with respect to the form, terms, denominations, tenor and maturities of such bonds, the interest thereon and the method and time of computing and paying such interest; to provide for the sale, execution and delivery of such bonds; to provide for liability on such bonds and security for the payment of principal thereof and interest thereon; and to make certain other provisions with respect to the borrowing of money and the issuance of bonds or other obligations by such public corporation.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other powers now or hereafter granted by law, each public corporation organized under the laws of the state of Alabama which is authorized by law (i) to operate a water system consisting of land, plants, systems, facilities, buildings and other property, or any combination of any thereof, which are used or useful or capable of future use in providing, furnishing, supplying or distributing water and (ii) to borrow money for use for one or more of its corporate purposes shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

(1) To sell and issue bonds of such public corporation in order to provide funds for any corporate function, use or purpose for which such public corporation is otherwise authorized by law to borrow money, any such bonds to be payable solely out of one or more of the following: (i) any or all proceeds of or receipts from any privilege, license, excise or other tax (whether such tax is levied by the state of Alabama or any county, municipality or public corporation thereof) received by such public corporation, including, without limitation, any tax proceeds or receipts which are required by law to be paid to or deposited to the credit of such public corporation and (ii) the revenues derived from any water, sewer or garbage system or other revenue-producing facility of such public corporation;

(2) To pledge for payment of any bonds issued by such public corporation any proceeds, receipts or revenues from which those bonds are made payable as provided in this act; and

(3) In evidence of any temporary borrowing of said public corporation, to issue from time to time revenue bonds or notes maturing not later than 36 months from the date of issuance. Any such temporary borrowing may be made in anticipation of the sale and issuance

of long-term revenue bonds, and in such event, the principal proceeds from the sale of such long-term revenue bonds shall, to the extent necessary, be used for payment of the principal of and the interest on the temporary revenue bonds or notes issued in anticipation of the sale and issuance of such long-term revenue bonds. Any temporary bonds or notes issued pursuant to this paragraph may be refunded or renewed or extended for an additional period of not more than 36 months from the date of maturity of the temporary bonds or notes being refunded or renewed or extended, but otherwise pursuant to all of the terms and conditions of this paragraph, whether or not the project with respect to which the outstanding temporary bonds or notes were issued has been completed.

Section 2. All bonds issued pursuant to the provisions of this act shall be signed by the chairman of the board of directors or other governing body or other chief executive officer of such public corporation and attested by its secretary and the seal of such public corporation shall be affixed thereto; provided, that a facsimile of the signatures of both of the officers whose signatures will appear on the bonds may be imprinted or otherwise reproduced thereon in lieu of being manually signed if the proceedings in which the bonds are authorized to be issued provide for the manual authentication of such bonds by a trustee, registrar or paying agent; provided further, that a facsimile of the seal of such public corporation may be imprinted or otherwise reproduced on any such bonds in lieu of being manually affixed thereto.

Any such bonds may be executed and delivered by such public corporation at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this act and shall bear such rate or rates of interest, or no interest, computed, compounded (if determined by its board of directors or other governing body to be advantageous), payable at such time or times, and evidenced in such manner, as may be provided by resolution of its board of directors or other governing body. All such bonds of such public corporation may be sold at either public or private sale in such manner and at such price or prices and at such time or times as may be determined by its board of directors or other governing body to be most advantageous. The principal of and interest on any such bonds issued or obligations assumed by such public corporation may thereafter at any time (whether before, at or after maturity of any such principal and whether at, after or not exceeding six months prior to the maturity of any such interest) and from time to time be refunded by the issuance of refunding bonds of such public corporation, which may be sold by such public corporation at public or private sale at such price or prices as may be determined by its board of directors or other governing body to be most advantageous

or which may be exchanged for the bonds or other obligations to be refunded. Such public corporation may pay all expenses, premiums and commissions which its board of directors or other governing body may deem necessary and advantageous in connection with any financing done by it. All such bonds issued by such public corporation shall be construed to be negotiable instruments although payable solely from a specified source. Neither a public hearing nor consent of the state department of finance shall be prerequisite to the issuance of such bonds by such public corporation. All such bonds issued by such public corporation and the income therefrom shall be exempt from all taxation in the state of Alabama.

All obligations created or assumed and all such bonds issued or assumed by such public corporation shall be solely and exclusively an obligation of such public corporation and shall not create an obligation or debt of any county or municipality; provided, that the provisions of this sentence shall not be construed to release the original obligor from liability on any bond or other obligation assumed by such public corporation.

Any such bonds issued by such public corporation shall be limited or special obligations of such public corporation payable solely out of the proceeds, receipts or revenues specified in the proceedings authorizing those bonds. Any such proceedings may provide that the bonds therein authorized shall be payable solely out of one or more of the following: (i) any or all proceeds of or receipts from any privilege, license, excise or other tax (whether such tax is levied by the state of Alabama or any county, municipality or public corporation thereof) received by such public corporation, including, without limitation, any tax proceeds or receipts which are required by law to be paid to or deposited to the credit of such public corporation and (ii) the revenues derived from the leasing, sale or operation of all water, sewer and garbage systems and other revenue-producing facilities owned by such public corporation or solely out of the revenues from the leasing, sale or operation of any one or more of such systems or facilities or parts thereof, regardless of the fact that those bonds may have been issued with respect to or for the benefit of only certain particular systems or facilities of such public corporation.

Such public corporation may pledge for the payment of any of its bonds the revenues from which such bonds are payable and may execute and deliver a trust indenture evidencing any such pledge or a mortgage and deed of trust conveying as security for such bonds the water, sewer or garbage systems or other revenue-producing facilities or any part of any thereof, the revenues or any part of the revenues from which are so pledged. Any mortgage and deed of trust or trust indenture made by such public corporation

may contain such agreements as its board of directors or other governing body may deem advisable respecting the operation and maintenance of the property and the use of the revenues subject to such mortgage and deed of trust or affected by such trust indenture and respecting the rights, duties and remedies of the parties to any such instrument and the parties for the benefit of whom such instrument is made; provided, that no such instrument shall be subject to foreclosure.

Section 3. As security for payment of the principal of and interest on bonds issued or obligations assumed by it, such public corporation may enter into a contract or contracts binding itself for the proper application of the proceeds of bonds and other funds, for the continued operation and maintenance of any water, sewer or garbage system or other revenue-producing facility owned by it or any part or parts thereof, for the imposition and collection of reasonable rates for and the promulgation of reasonable regulations respecting any service furnished from any such system or facility, for the disposition and application of its gross revenues or any part thereof and for any other act or series of acts not inconsistent with the provisions of this act for the protection of the bonds and other obligations being secured and the assurance that the revenues from such system or facility will be sufficient to operate such system or facility, maintain the same in good repair and in good operating condition, pay the principal of and interest on any bonds payable from such revenues and maintain such reserves as may be deemed appropriate for the protection of the bonds, the efficient operation of such system or facility and the making of replacements thereof and capital improvements thereto.

Any contract pursuant to the provisions of this section may be set forth in any resolution of its board of directors or other governing body authorizing the issuance of bonds or the assumption of obligations or in any mortgage and deed of trust or trust indenture made by such public corporation under this act.

Section 4. Any resolution of the board of directors or other governing body of such public corporation or trust indenture under which bonds may be issued pursuant to the provisions of this act may contain provisions creating a statutory mortgage lien, in favor of the holders of such bonds, on the water, sewer and garbage systems or other revenue-producing and facilities or any thereof (including any after-acquired property) out of the revenues from which such bonds are made payable. The said resolution of the board of directors or other governing body of such public corporation or the said trust indenture may provide for the filing for record in the office of the judge of probate of each county in which any part of such water, sewer and garbage systems or other revenue-producing

facilities or any thereof may be located of a notice containing a brief description of such systems and facilities or any thereof, a brief description of such bonds and a declaration that said statutory mortgage lien has been created for the benefit of the holders of such bonds upon such systems and facilities or any thereof, including any additions thereto and extensions thereof. Each judge of probate shall receive, record and index any such notice filed for record in his office and no mortgage or deed tax shall be payable with respect to any such filing for record. The recording of such notice, as provided in this section, shall operate as constructive notice of the contents thereof.

Section 5. All moneys derived from the sale of any such bonds issued by such public corporation shall be used solely for the purpose or purposes for which the same are authorized, including the funding of all or part of any reserve funds which may be required for debt service, replacement and extension or capital improvements, and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to:

(1) The fiscal, engineering, legal and other expenses incurred in connection with the issuance of and security for the bonds, including, without limitation, the charges, premiums or fees in connection with any debt service insurance or letter of credit or other additional security given with respect to its bonds, whether such amounts are to be paid in a lump sum or over a period of time;

(2) Interest on bonds in the case of bonds issued to pay costs of construction or, if a part only of any series of bonds is issued for construction purposes, interest on that portion of the bonds of that series that is issued to pay construction costs prior to and during such construction and for not exceeding one year after completion of such construction; and

(3) Any premium that it may be necessary to pay in order to redeem or retire the bonds or other obligations to be refunded in the case of the bonds issued for the purpose of refunding principal and interest, or either, with respect to bonds issued or obligations assumed by such public corporation.

Section 6. The proceeds of any such bonds issued by such public corporation and moneys held in any special fund established by such public corporation in connection with the issuance of any of its bonds may be invested in any direct obligations of the United States of America, the obligations of any agency of the United States of America, interest bearing bank deposits, or in any securities the payment of the principal of and interest on which is fully secured by direct obligations of the United States of America or in

any obligations in which municipal or county funds are authorized to be invested pursuant to Section 11-81-21, Code of Alabama 1975.

Section 7. This law shall not repeal or supersede any existing law which authorizes the issuance and sale of bonds by a public corporation but no such existing law shall be construed to prohibit the issuance and sale of bonds as permitted by this act. This act shall be construed liberally to effect its purposes and neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which any public corporation might otherwise have under any laws of the state of Alabama, and the provisions of this act shall be cumulative to any such powers.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:44 P.M.

Act No. 91-552

H. 99 — Rep. Campbell

AN ACT

To amend section 22-21-5 of the Code of Alabama 1975, to grant to public bodies organized under the said section the powers of health care authorities organized under Article 11 of chapter 22 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-21-5 of the Code of Alabama 1975, shall be, and hereby is, amended to read as follows:

“§22-21-5.

“(a) Any public body heretofore or hereafter created and established by ordinance or resolution pursuant to this chapter may become a body corporate and politic under the name set forth in such ordinance or resolution by filing a certified copy of such ordinance or resolution with the secretary of state, to be recorded in

his office. The members of such public body shall constitute the members of the corporation until they are succeeded by other members as provided by said ordinance or resolution. Neither the members of the corporation nor its directors or officers shall be personally liable for the debts, torts or undertakings of the corporation.

“(b) The corporations provided for by this section shall have all the power and authority of health care authorities as provided for by article 11 of this chapter; except, that such corporations shall not have or exercise any power which is inconsistent with or repugnant to the provisions of the ordinance or resolution under which it came into existence.

“(c) This section shall be deemed to be cumulative.”

Section 2. This amendatory act shall not affect any agency relationship presently existing between any public body organized under section 22-21-5 of the Code of Alabama 1975, and any governmental unit of the state of Alabama respecting the operation of a public hospital by such public body.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:45 P.M.

Act No. 91-553

H. 100 — Rep. Campbell

AN ACT

To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1989 Special Session and the 1990 Regular Session of the Legislature, as contained in the 1990 Cumulative Supplement to certain volumes of the Code and in the 1990 Replacement Volume 14 of the Code; and to make corrections in certain volumes of such cumulative supplement.

Be It Enacted by the Legislature of Alabama:

Section 1. Those general and permanent laws of the state enacted during the 1989 Special Session and the 1990 Regular Session of the Legislature, as contained in the 1990 Cumulative Supplement to Volumes 3 through 13, and 15 through 22, and the 1990 Replacement Volume 14 of the Code of Alabama 1975, as

edited and prepared by The Michie Company, as the Alabama Code Commissioner, which said volumes of such cumulative supplement and said replacement volume are identified and authenticated by the Great Seal of the State of Alabama placed upon the front and back of each of the volumes of the cumulative supplement and upon the first inside page and the last inside page of the replacement volume, be and the same are hereby adopted and incorporated into the Code of Alabama 1975 as adopted by Act No. 20, H. 100, of the 1977 Regular Session of the Legislature, approved February 15, 1977 (Acts of 1977, p. 28). Provided, however, the following corrections shall be made in certain volumes of such 1990 Cumulative Supplement:

(1) § 12-15-71, Vol. 11, p. 56: On the last line of subsection (b), delete "(21)" and insert in lieu thereof "(22)".

(2) § 12-15-71, Vol. 11, pp. 56, 57: In subsection (c), delete subdivision (4) in its entirety and renumber subdivisions (5) and (6) as (4) and (5). Also, in subsection (c), at the end of renumbered subdivision (4), insert "; or".

(3) § 35-8A-317, Vol. 19, p. 169: Delete in its entirety the last paragraph following subsection (d).

Section 2. It is hereby declared that The Michie Company, as the Alabama Code Commissioner, has discharged its duties and responsibilities to edit and publish 1990 Replacement Volume 14 of the Code of Alabama 1975 by combining the material in the previous bound volume with the material contained in the cumulative supplement thereto without making any substantive changes, but making such nonsubstantive changes and corrections as may have resulted from changes in reference numbers, changes of names and titles of governmental departments, agencies and officers, typographical errors and misspellings.

Section 3. The adoption of this act shall not repeal, supersede, amend, or in any other way affect any statute enacted into law during any 1991 session of the Legislature.

Section 4. Upon passage and approval of this act, the duly authenticated volumes of the 1990 Cumulative Supplement and the duly authenticated 1990 replacement volume shall be transmitted to the Secretary of State, who shall file the volumes of the supplement and the replacement volume in that office. Such volumes of the supplement and such replacement volume shall not be removed from the office of the Secretary of State, but the Secretary of State, upon request, under proper certificate and seal of that office, shall certify any part or parts thereof upon payment of the fee specified by law for similar services.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:46 P.M.

Act No. 91-554

H. 153 — Reps. Johnson, Beasley

AN ACT

To add a Section 34-23-75, Code of Alabama 1975, Alabama Pharmacy Practice Act, which would allow licensed pharmacists to refill a prescription for up to a 72 hour supply, when they are unable to obtain refill authorization from the prescriber.

Be It Enacted by the Legislature of Alabama:

34-23-75 Emergency Prescription Refill:

Section 1 — In the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to readily obtain refill authorization from the prescriber, the pharmacist may dispense a one-time emergency refill of up to a 72 hour supply of the prescribed medication, providing that:

1) The prescription is not a medicinal agent listed in Schedule II appearing in Title 20, Chapter 2.

2) The medication is essential to the maintenance of life or the continuation of therapy in a chronic condition. Only those drugs designated by a joint rule adopted by the Board of Pharmacy and Board of Medical Examiners shall be refilled, according to the procedure established in 34-23-75.

3) The dispensing pharmacist creates a written order containing all of the prescription information required by this Chapter and Title 20, Chapter 2.

4) The dispensing pharmacist notifies the prescriber of the emergency dispensing within seventy-two (72) hours after such dispensing.

Section 2 — The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, and such declaration shall not affect the part which remains.

Section 3 — This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:47 P.M.

Act No. 91-555

H. 1041 — Rep. Clark (J)

AN ACT

To authorize the city council of the City of Eufaula, Alabama, acting pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, to increase the rate at which there is levied and collected by the City of Eufaula, on all taxable property situated within the City of Eufaula, the special ad valorem tax for public school purposes which is authorized in Amendment No. 56 to the constitution, to a maximum rate, for any tax year of the city, which is equal to \$1.30 on each one hundred dollars (13 mills on each dollar) of assessed value.

Be It Enacted by the Legislature of Alabama:

Section 1. The following words and phrases used in this act, and others evidently intended as the equivalent thereof, shall, in the absence of a clear implication herein otherwise, be given the following respective interpretations herein:

(1) **AMENDMENT NO. 56.** The certain amendment to the constitution that was proposed by Act No. 383 enacted at the 1945 Regular Session of the Legislature of Alabama.

(2) **AMENDMENT NO. 373.** The certain amendment to the constitution that was proposed by Act No. 6 enacted at the 1978 Second Special Session of the Legislature of Alabama.

(3) **CITY.** The City of Eufaula, Alabama.

(4) **COUNCIL.** The city council of the city or other governing body of the city.

(5) **CONSTITUTION.** The Constitution of Alabama of 1901.

(6) **SPECIAL TAX.** The special ad valorem tax voted for public school purposes that is authorized in Amendment No. 56 and pursuant to an election held in the city on May 20, 1958, to be levied and collected on taxable property in the city.

Section 2. The city is presently authorized to levy and collect the special tax at a rate of \$.50 on each one hundred dollars (5 mills on each dollar) of assessed value pursuant to Amendment

No. 56 and an election held in the city on May 20, 1958. Pursuant to a resolution adopted by the council in accordance with the provisions of Amendment No. 373, the city proposes to increase the rate at which the city is authorized to levy and collect the special tax to a maximum rate, for any tax year, which is equal to \$1.30 on each one hundred dollars (13 mills on each dollar) of assessed value.

Section 3. Pursuant to subsection (f) of Amendment No. 373 and a resolution heretofore adopted by the council after a public hearing, the council is hereby authorized to increase the rate at which the city is authorized to levy and collect the special tax to a maximum rate, for any tax year, which is equal to \$1.30 on each one hundred dollars (13 mills on each dollar) of assessed value.

Section 4. The increase in the rate at which the special tax may be levied and collected pursuant to this act is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:48 P.M.

Act No. 91-556

H. 401 — Rep. Letson

AN ACT

To amend Section 2-27-9 which provides for registration of pesticides by raising the annual registration fee from \$50 up to \$100.

Be It Enacted by the Legislature of Alabama:

Section 1. §2-27-9, Alabama Code (1975), is hereby amended to read as follows:

“§2-27-9.

(a) Every pesticide or device which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the commissioner upon application forms prescribed and furnished

by him, and such registration or registrations shall be renewed annually, due January 1 of each year. The applicant shall pay an annual registration fee of \$100.00 for each and every brand registered, which fee shall accompany the application for registration to be deposited to the credit of the agricultural fund of the state treasury. If the registration fee as required under this section is not paid by March 1, or within 60 days following its due date a delinquent penalty of \$50.00 per brand to be registered shall be added to the amount thereof.

Pesticides may also be registered for special local needs as provided under duly adopted regulations of the state board of agriculture and industries and pursuant to the requirements of the Federal Insecticide, Fungicide and Rodenticide Act, as amended. Special local need registration means registration of a pesticide for use under conditions of special local need as defined by the Federal Insecticide, Fungicide and Rodenticide Act, as amended. The fee and other requirements for special local need pesticide registration shall be the same as other pesticide registration requirements. The application for registration shall contain a statement giving:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;

(2) The name of the pesticide with an ingredient statement;

(3) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it including directions for use; and

(4) If requested by the commissioner, a full description of the tests made, and the results thereof, upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(b) The commissioner, whenever he deems it necessary in the administration of this article, may require the submission of the complete formula and method of analysis of any pesticide. If it appears to the commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 2-27-14, he shall register the article.

(c) If it is determined as provided under subsection (d) of section 2-27-6 that a pesticide, based upon its formulation and directions for use, warnings and cautions contained in its registered labeling, may

not, without additional restrictions, be applied for its intended use without substantial adverse effects on the environment, including injury to the applicator, such pesticide shall be designated as a restricted-use pesticide.

(d) If it does not appear to the commissioner that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this article, he shall notify the applicant of the manner in which the article, labeling or other material required to be submitted fail to comply with the article so as to afford the applicant an opportunity to make the necessary corrections.

If, upon receipt of such notice, the applicant does not make the corrections, the commissioner may refuse to register the article. The commissioner, in accordance with the procedures specified in this section, may suspend or cancel the registration of a pesticide whenever it does not appear that the article or its labeling complies with the provisions of this article. Whenever an application for registration is refused or the commissioner proposes to suspend or cancel a registration as authorized under subsections (c), (d) and (e) of this section, notice of such action shall be given to the applicant or registrant who shall have 20 days from the date of such notice to request a hearing on the proposed action of the commissioner. The hearing shall be conducted by the commissioner, or his designee, for the purpose of receiving evidence relevant and material to the issues, following the conclusion of which the commissioner shall issue an order with findings of fact and notify the applicant or registrant thereof. The commissioner's order shall be based only on substantial evidence of record taken at the hearing.

Any person who will be adversely affected by such order of the commissioner may obtain judicial review thereof by filing in the circuit court of Montgomery county, within 30 days after the entry of such order, a complaint requesting that the order be set aside in whole or in part. A copy of the petition shall be forthwith served upon the commissioner, and within 20 days from the date of service of such complaint the commissioner shall file an answer accompanied by the record of the proceedings on which he based his order. The court shall have jurisdiction to affirm or set aside the order complained of, in whole or in part, following a hearing upon the complaint and answer. The findings of the commissioner with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole. The court may sustain the order of the commissioner or set aside or reverse the action of the commissioner, or it may remand the matter to the commissioner to take further testimony if there are reasonable grounds for the failure to adduce such evidence in the

prior hearing. The commissioner may modify his findings and his order by reason of the additional evidence so taken and shall file the additional record and any modification of the findings or order with the register or clerk of the court.

(e) Upon the advice of the pesticide advisory committee and with the approval of the state board of agriculture and industries, the commissioner shall refuse the registration or cancel the registration of any pesticide or device previously registered where it is determined that the use of the pesticide according to directions on the label poses a substantial adverse effect on humans, animals or the general environment. Any person upon being notified of the refusal of registration of a pesticide or the cancellation thereof shall be entitled to the review, hearing and appeal rights as provided under subsection (d) of this section.

(f) Experimental labels may be required to be affixed to containers of pesticides where the pesticide is for experimental use.

(g) Notwithstanding any other provisions of this article, registration is not required in the case of a pesticide shipped from one plant within this state to another plant within this state operated by the same person.

(h) The registration fee as required under this section, together with the dealer license fee required under section 2-27-10, shall be paid by cooperative marketing and purchasing associations and any exemption allowed such organizations pursuant to section 2-10-105 or any other exemption statute shall not relieve such associations from the payment of such fees. Any amount improperly or illegally collected under the provisions of this article as overpayments, through mistake or otherwise, may be refunded to the person entitled thereto in accordance with § 2-1-6."

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective January 1 following its enactment and approval by the Governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:49 P.M.

Act No. 91-557

H. 419 — Rep. Lindsey

AN ACT

To make a supplemental appropriation from the Farmers' Market Authority Fund to the Farmers' Market Authority for the sum of two hundred thirty-eight thousand five hundred and fifty dollars (\$238,550) for the fiscal year ending September 30, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated from the Farmers' Market Authority Fund to the Farmers' Market Authority the sum of two hundred thirty-eight thousand five hundred and fifty dollars (\$238,550) for the fiscal year ending September 30, 1991. Of the above appropriation \$232,000 shall be used for capital outlay and \$6,550 shall be used for operations.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby specifically repealed.

Section 4. This Act shall become effective immediately upon its passage and approval of the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:50 P.M.

Act No. 91-558

H. 435 — Reps. McDaniel, Rich

AN ACT

To create a new district judgeship in Marshall County.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional district judgeship for Marshall County, which shall be designated judgeship number 2. The judgeship will be filled at the general election in 1992, and the person elected shall assume office in January, 1993. Every six years thereafter, a judge shall be elected to fill such judgeship at the general election.

Section 2. The judge elected as provided in Section 1 of this act shall have and shall exercise all the jurisdiction, power, right

and authority; shall possess all of the qualifications; shall perform all of the duties required; and shall be subject to all of the pains and penalties of such office as the other district judges are subject to.

Section 3. The compensation of such judge shall be the same as and paid under the same circumstances as that of the other district judges in Marshall County, including the payment of any county supplement or expense allowance.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:51 P.M.

Act No. 91-559

H. 593 — Rep. Holladay

AN ACT

To amend sections 30-3-61 and 30-3-62, Code of Alabama 1975, relating to child support withholding orders, so as to require the employer to remit to the clerk of the court, the department, or its designee the child support withheld within 10 days of the date the obligor is paid; to provide that payments withheld shall be paid over by the employer in accordance with section 30-3-61(b), Code of Alabama 1975; to specify the requirements for termination of withholding orders; and to require prompt termination of withholding when criteria are met; to amend section 30-3-94, Code of Alabama 1975, relating to the Interstate Income Withholding Act, so as to provide for immediate wage withholding on interstate child support cases.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 30-3-61, Code of Alabama 1975, is hereby amended to read as follows:

“§ 30-3-61.

“(a) Any provision of section 8-5-21, to the contrary notwithstanding, any original decree, judgment or order issued by a court of this state for the payment of support, any decree or judgment entered pursuant to a petition to modify an original decree or award of support, any decree or judgment of contempt of court for failure to pay support as previously ordered by a court of this state

or any decree or judgment for criminal or civil nonsupport shall include as a separate section a withholding order subject to subsection (c) of this section directing any employer of the obligor to withhold and pay over to the clerk of the court or the department of human resources, or its designee, whichever is appropriate, out of income due or to become due the obligor at each pay period, an amount ordered to be paid for support. The withholding order shall not under any circumstances be waived by mutual agreement of the parties to the case.

“(b) The withholding order shall recite the amount of the obligor’s continuing support obligation and shall require the withholding of the support obligation from the income due or becoming due to the obligor at each pay period and payment to the clerk of the court out of which the order is issued or the department or its designee, whichever is appropriate within 10 days of the date the obligor is paid the paycheck from which the support is withheld. Provided, if the obligor’s support obligation is ordered to be paid monthly and the obligor’s pay periods are at more frequent intervals, the employer may withhold at each pay period an amount cumulatively sufficient to equal the total monthly support obligation and pay said amount withheld at each pay period over to the clerk of the court or the department or its designee, within 10 days of the date the obligor is paid the paycheck from which the amount is withheld. The withholding order shall also recite the duty of the obligor and the employer to notify the collecting agency of any change in employment or termination of income of the obligor as provided in this article.

“(c) A withholding order issued pursuant to this section shall be a continuing order and shall remain in effect and be binding upon any employer upon whom it is served until further order of the court. Where any order of support is entered or modified at the request of the department, the withholding order issued therewith pursuant to this section shall be served immediately upon the obligor’s employer and shall take effect immediately; except such immediate withholding shall not be implemented in any case where one of the parties demonstrates, and the court finds, there is good cause not to require immediate income withholding, or a written agreement is reached between both parties which provides for an alternative arrangement; in such cases income withholding shall be implemented if the absent parent fails to make payments in an amount equal to one month’s support obligation, or the absent parent requests immediate withholding, or the payee or the department requests that withholding begin and the absent parent has failed to make a payment or payments on the date(s) due. A withholding order issued pursuant to this section not at the request of the department shall not be served on the employer and shall not take effect unless the obligor becomes

delinquent in a dollar amount equal to one month of support payments, or the obligor requests that the withholding order take effect at an earlier date, or the court otherwise orders that the withholding order take effect at an earlier date.

“(d) In the event the obligor becomes delinquent in the support payments in a dollar amount equal to one or more month’s support obligation, or a withholding order entered at the request of the department was not immediately served upon the employer, or at such time as the obligor wishes to have the income withholding order served upon his employer, the obligee or the obligor may file with the clerk of the court a sworn affidavit stating the appropriate basis upon which service of the income withholding order is now being sought. Upon the filing of the affidavit and the payment of a docket fee in the same amount as is prescribed by section 12-19-75 for the filing of a garnishment proceeding, a copy of the withholding order issued pursuant to this section shall be served upon the employer pursuant to the Alabama Rules of Civil Procedure. A copy shall be served upon the obligor by first class mail. Provided, the cost of such filing shall not be prepaid if, upon the filing of an affidavit of substantial hardship, the obligee or obligor is found by the court to be incapable of prepaying said cost or if the affidavit is filed by the department or a representative of the department, but in such cases the cost of such filing shall be taxed as costs against the obligor at the time service of the order is requested and shall be withheld from the obligor’s first pay period subjected to the income withholding order. Additionally, when service upon the employer is requested by means of certified mail, the actual cost of such service shall be prepaid in all cases at the time the service is requested.”

Section 2. Section 30-3-62, Code of Alabama 1975, is hereby amended to read as follows:

“§ 30-3-62.

“(a) Any provisions of section 8-5-21 to the contrary notwithstanding, and in addition to and independent of any other remedy provided by law for the enforcement of support, the obligee, district attorney or representative of the department of human resources may file with a court of this state, as defined in this article, a petition seeking an order of income withholding. Additionally, for all existing support orders issued in the state of Alabama that do not provide for income withholding and upon the filing of an application for support services by such obligee with the department, the department shall petition the court for an income withholding order pursuant to the provisions of this section. The obligee, district attorney or representative of the department of human resources shall file with the clerk of the court the following documents:

“(1) Three copies of a petition seeking the income withholding order, said petition to include the name and address of both the obligor and obligee;

“(2) One certified copy and two additional copies of the original support order with all modifications thereof;

“(3) A sworn affidavit of the obligee, or a certified statement of the agency, of the arrearages, if any, and any assignment of support rights; and

“(4) Two copies of a notice of the proposed income withholding. The notice shall advise the obligor that an income withholding order shall be issued by the court in accordance with the further provisions of this section.

“(b) The obligor shall be served by the methods authorized in the Alabama Rules of Civil Procedure with a copy of all the documents listed in subsection (a) of this section.

“(c) An income withholding order shall be issued by the court unless the obligor requests a hearing within 10 days of the date of service of the petition and notice. Provided, further, if the obligor requests a hearing, the hearing shall be held and a decision rendered within 45 days of the date of service of the petition and notice upon the obligor unless the obligee, district attorney or representative of the department of human resources requests a continuation of the case to a later date or the court, on its own motion and for good cause shown, continues the case to a later date. An obligor may contest the issuance of an income withholding order under this section only on the basis of mistakes of fact. The income withholding order issued pursuant to the provisions of this section may be issued by any court competent to adjudicate these proceedings, as such term is defined in this article, and shall be issued without the need for an amendment to the existing support order.

“(d) An order entered pursuant to this section shall recite the amount required to be withheld as continuing support for each month, the total amount of all accumulated arrearages, if any, and the amount required to be withheld for each month in order to satisfy the arrearage. The order shall require withholding from the income due or becoming due the obligor at each pay period and payment to the clerk of the court or the department or its designee, whichever is appropriate, of the amounts ordered pursuant to this section. If the obligor's support obligation is required to be paid on a monthly basis and his or her pay periods are at more frequent intervals, the employer may withhold, at each pay period, amounts cumulatively sufficient to equal the total monthly arrearage due, if any, and the total monthly continuing support

obligation and pay over to the clerk of the court or the department, or its designee, the amount withheld in accordance with section 30-3-61(b). When payments are ordered made directly to the clerk of the court, it shall be the responsibility of the clerk to disburse the payments in accordance with the court's order.

“(e) Any order entered pursuant to this section shall be a continuing order and shall remain in effect and be binding upon any employer upon whom it is served until further order of the court. Provided a withholding order issued pursuant to this section shall not be served on the employer and shall not take effect unless the obligor is or becomes delinquent in a dollar amount equal to one month of support payments, or the obligor requests that the withholding order take effect at an earlier date, or the court otherwise orders that the withholding order take effect at an earlier date.

“(f) In the event the obligor becomes delinquent in the support payments in a dollar amount equal to one or more month's support obligation, or at such time as the obligor wishes to have the income withholding served upon his employer, the obligee or the obligor may file with the clerk of the court a sworn affidavit stating the appropriate basis upon which service of the income withholding order is now being sought. Upon the filing of the affidavit and the payment of a docket fee in the same amount as is prescribed by section 12-19-75 for the filing of a garnishment proceeding, a copy of the withholding order issued pursuant to this section shall be served upon the employer pursuant to the Alabama Rules of Civil Procedure. A copy shall also be served upon the obligor by first class mail. Provided, the cost of such filing shall not be prepaid if, upon the filing of an affidavit of substantial hardship, the obligee or obligor is found by the court to be incapable of prepaying said cost or if the affidavit is filed by the department or a representative of the department, but in such cases the cost of such filing shall be taxed as costs against the obligor at the time service of the order is requested and shall be withheld from the obligor's first pay period subjected to the income withholding order. Additionally, when service upon the employer is requested by means of certified mail, the actual cost of such service shall be prepaid in all cases at the time the service is requested.

“(g) When an income withholding order is entered pursuant to this section by a court other than the court which originally entered the support order, a copy of the income withholding order shall be forwarded by the clerk of the court entering said order to the clerk of the court which entered the original support order. The clerk of the court which entered the original order of support shall also be notified whenever the income withholding order is served upon an employer and withholdings are to commence.

“(h) The withholding order shall be promptly terminated when there is no longer a current order for support and all arrearages have been satisfied, or the obligor requests termination and withholding has not been terminated previously and subsequently initiated and there is a written agreement signed by both the custodial and absent parent, and in IV-D cases in which there is an assignment of support rights to the state, by the department, providing for an alternative arrangement as provided in subsection (c) of section 30-3-61. In such cases, income withholding shall be reinstated if the absent parent fails to make payments in the amount of one month’s support obligation or the absent parent requests immediate income withholding or the payee or the department requests that withholding be reinstated and the absent parent has failed to make a payment or payments on the date(s) due. A withholding order reinstated pursuant to this provision shall be permanent for the duration of the obligation for support, or until such time as the withholding order is modified or terminated pursuant to section 30-3-64 or section 30-3-65.”

Section 3. Section 30-3-94, Code of Alabama 1975, is hereby amended to read as follows:

“§ 30-3-94.

“(a) At any hearing contesting adoption of the support order of another jurisdiction and entry of an income withholding order, the other state’s order, accompanying sworn or certified statement, and a certified copy of an income withholding order or notice of the other state, if any, which is still in effect shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

“(b) Once a prima facie case has been established, the obligor may raise only the following:

“(1) That withholding is not proper because of a mistake of fact that is not res judicata concerning such matters as an error in the amount of current support owed or arrearage that has accrued, mistaken identity of the obligor or error in the amount of income to be withheld;

“(2) That the court or agency which issued the support order which has been filed under this section lacked personal jurisdiction over the obligor and that such issue is being raised and is currently pending in the appropriate court of the other jurisdiction;

“(3) That the support order filed under this section was obtained by fraud and that such issue is being raised and is currently pending in the appropriate court of the other jurisdiction; or

“(4) That the statute of limitations provided under subsection (d) of this section precludes enforcement of all or part of the arrearages.

“The burden shall be on the obligor to establish these defenses. If the obligor presents evidence which constitutes a full or partial defense, the court shall, on the request of the obligee, continue the case to permit further evidence relative to the defense to be adduced by either party. Provided, however, that if the obligor acknowledges liability sufficient to entitle the obligee to adoption of the support order and income withholding, the court shall require income withholding for the payment of current support payments under the support order and of so much of any arrearage as is not in dispute, while continuing the case with respect to those matters still in dispute. The court shall determine those matters still in dispute as soon as possible, and if appropriate shall modify the income withholding order to conform to that resolution.

“(c) In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses in another state, including the parties and any of the children, by deposition, by written discovery, by photographic discovery such as videotaped depositions or by personal appearance before the court by telephone or photographic means. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken. A court of this state may request the appropriate court or agency of another jurisdiction to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that state and to forward to the court of this state certified copies of the evidence adduced in compliance with the request.

“(d) Except with respect to when withholding must be implemented which is controlled by the state where the support order was entered, the law and procedures of the state in which the absent parent is employed shall apply.

“The court shall apply the statute of limitations for maintaining an action on arrearages of support payments of either the local law of this state or of the state which issued the support order adopted under this article, whichever is longer.”

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:53 P.M.

Act No. 91-560

H. 870 — Rep. Harper

AN ACT

To appropriate from the agricultural fund for the fiscal year ending September 30, 1991 the sum of \$250,000 for use by the Department of Agriculture and Industries.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1991, there is hereby appropriated to the Department of Agriculture and Industries, out of monies in the agricultural fund, the sum of Two Hundred Fifty Thousand Dollars (\$250,000), which said appropriation shall be in addition to any and all other funds heretofore or hereafter appropriated.

Section 2. The provisions of this Act are severable. If any part of the Act is declared unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:54 P.M.

Act No. 91-561

H. 412 — Rep. Zoghby

AN ACT

To further provide for payroll deductions for public officers and employees, so as to establish an annual Alabama state employees combined charitable campaign; to repeal Section 36-1-4.1, Code of Alabama 1975, as amended, relating to local United Way agencies and certain other health charities and payroll deductions.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as the “Alabama State Employee Combined Charitable Campaign Act.”

Section 2. The legislature finds that:

(a) It is the policy of the state to lessen the burden of government at both the state and local levels in meeting the needs of human health, welfare and human care services by supporting charitable giving;

(b) There is a need to provide a single convenient channel through which public employees may support charitable fund-raising federations and agencies of their choice while minimizing workplace disruption and administrative cost to Alabama taxpayers;

(c) It is necessary to establish a system to plan and implement one annual charitable fund-raising campaign among state employees in order to ensure that the funds will be collected and distributed in a responsible manner; and

(d) It is the policy of the state to permit time in the working day during the prescribed campaign period sufficient for volunteers to participate in the state campaign, with the approval of the department heads.

Section 3. As used in this act:

(a) “Alabama State Employee Combined Charitable Campaign” (ASECCC) means the annual combined charitable fund-raising program established through this act to receive and distribute voluntary payroll deduction contributions of state employees.

(b) “Charitable fund-raising federation” means a legally constituted grouping of at least ten health and human care agencies that are bound together to raise and distribute charitable contributions.

(c) “Affiliated charitable agency” means a charitable fund-raising organization which is affiliated with a charitable fund-raising federation for the purpose of directly sharing funds raised by the organization.

(d) “Charitable agency” means a volunteer, not-for-profit organization under Federal Regulation 26 CFR 1.501(c)(3) which provides health or human care services to individuals.

(e) “Campaign Manager” means the participating federation, selected by the local agency review committee, responsible for managing the local State Employee Combined Charitable Campaign in each local geographic region or campaign community.

(f) "Campaign Community" means a local geographic region covered by a campaign manager, the exact boundaries determined by a local agency review committee and approved by a state-level steering committee.

(g) "State Employee Campaign Steering Committee" means a committee of seven state employees representing top level leadership and rank and file employees; with the three branches of state government represented, with the chair appointed by the Governor, and with staff assistance furnished by the campaign manager in the Montgomery area; responsible for reviewing appeals of local agency review committee decisions and for overseeing, at the state level, the conduct of the State Employee Combined Charitable Campaign.

(h) "Local Agency Review Committee" (LARC) means a group of state employees in each campaign community responsible for: selecting the local campaign manager; determining the geographic boundaries of the campaign community; determining the eligibility of participating agencies; allocating undesignated funds; and overseeing the actual solicitation of state employees in their respective communities.

Section 4. (a) The Governor of the State of Alabama shall be the ultimate authority for implementation of the ASECCC, including promulgation of administrative regulations and procedures not covered in this act.

(b) The campaign manager shall be selected by the LARC through a bid process and shall be responsible for managing and administering the local ASECCC, and for furnishing staff support to each LARC.

(c) The State Employee Campaign Steering Committee shall be responsible to the Governor and shall have the following duties and responsibilities:

1. Be responsible for policy, oversight, and implementation of procedures pursuant to this act and notifying participating agencies of its rules and procedures pursuant to the administrative code.

2. Arrange for publication of information about the annual federation and agency application process.

3. On appeals from applicant federations and agencies, review and rule on decisions made by the LARC in accordance with the administrative code.

4. Notify in writing each of the appeal federations and agencies of its acceptance or rejection and provide the reason for any rejection, and provide for a hearing process.

(d) The Local Agency Review Committee (LARC) shall be chaired by the director of one of the three largest state agencies in each geographic area, with at least two other state employees, selected by the chairman, the number to be determined by the chairman. Selection of the chairman shall be approved by the State Employee Campaign Steering Committee. The LARC shall be responsible for the following:

1. Selecting through a bid process the local campaign manager.
2. Determining the boundaries of the local campaign community.
3. Reviewing applications from federations and agencies electing to participate in the ASECCC and certify that the federation, each affiliated agency, and unaffiliated agencies meet the eligibility criteria set forth in Section 5 of this act.
4. Notifying in writing each of the applying local organizations of its acceptance or rejection and of its right to appeal.
5. Determining the allocation of undesignated funds.
6. Overseeing the actual solicitation of state employees in their respective communities.

Section 5. (a) Participation in the Alabama State Employee Combined Charitable Campaign shall be limited to voluntary, charitable, health and human care federations and agencies with a substantial local presence that provide or support direct health and welfare services to individuals or their families and meet the criteria set forth in this section. "Substantial local presence" is defined as a facility, staffed by professionals or volunteers, available to provide its services and open at least 15 hours a week. Such services must be available to state employees in the local campaign community, unless they are rendered to needy persons overseas. Such services must directly benefit human beings, whether children, youth, adults, the aged, the ill and infirm, or the mentally or physically handicapped. Such services must consist of care, research, or education in the fields of human health or social adjustment and rehabilitation; relief for victims of natural disasters and other emergencies; or assistance to those who are impoverished and in need of food, shelter, clothing, and basic human welfare services.

(b) For the purposes of the Alabama State Employee Combined Charitable Campaign, basic health and human care service shall not include:

- (1) Organizations whose primary purpose is the direct or indirect support of institutions of higher education;
- (2) Organizations engaging in litigation activities on behalf of parties other than themselves;

(3) Lobbying; and

(4) Religious activities.

(c) To be included in the Alabama State Employee Combined Charitable Campaign, a charitable federation or agency, in addition to meeting the other requirements in this section, shall:

(1) Be a tax exempt charitable organization and submit a 501 (c)(3) exemption from the Internal Revenue Service;

(2) Be incorporated or authorized to do business in this state as a private, nonprofit organization;

(3) Not be a foundation;

(4) Demonstrate to the local agency review committee that at least 60% of funds raised locally in each of the two fiscal years preceding its application to participate in a campaign consist of individual contributions from citizens of the State;

(5) Be directed by an active local board which meets at least quarterly, whose members serve without compensation and are residents of the local geographic region served (with the exception of agencies serving the needy overseas);

(6) Adopt and employ the standards of accounting and financial reporting for voluntary health and welfare organizations; prepare and make available to the general public a detailed annual budget; provide for an annual external audit by an independent public accountant and make such audit available to the general public; and provide and make available to the general public an annual report.

(7) Provide programs of services directed at one or more of the common human needs defined in Section 5(a) in the State of Alabama or in countries overseas;

(8) Have a stated policy of nondiscrimination and be in compliance with all requirements of law and regulations respecting nondiscrimination and equal employment opportunity with respect to its clients, officers, employees, and volunteers;

(9) (For federations only, with the exception of federations serving the needy overseas): Have raised at least \$60,000 at the local level, and distributed that sum among at least 10 charitable agencies in each of its last two fiscal years preceding its application to participate in the campaign; and

(d) A charitable federation or agency shall automatically be eligible to participate if it is currently participating in the State of Alabama employee campaign under the provisions of Section 36-1-4.1 of the Code of Alabama 1975, as amended.

Section 6. (a) ASECCC is the only authorized payroll deduction charitable fund-raising effort among state employees.

(b) The state comptroller and each disbursing officer shall promptly transmit the amounts deducted, and an accounting of the amounts designated to the various charitable fund-raising federations or charitable agencies, to the respective campaign manager who shall be responsible for final distribution of the amounts to the designated organizations or agencies.

(c) The State Employee Campaign Steering Committee shall, within 120 days after the effective date of this act and from time to time thereafter, adopt regulations and procedures as shall be necessary to implement the provisions of this act.

(d) The undesignated contributions shall be distributed to the participating agencies on a percentage basis determined by the level of charitable funding of services provided in the local community or by the level of health research funding raised in the State of Alabama by each agency less administrative and fund-raising costs, except for those agencies serving the needy overseas, which shall receive an agreed set percentage.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains;

Section 8. Section 36-1-4.1, Code of Alabama 1975, as amended, is hereby specifically repealed.

Section 9. After passage by the Legislature and approval by the Governor, this act shall become effective on July 1, 1992.

Approved July 29, 1991

Time: 6:55 P.M.

Act No. 91-562

H. 694 — Reps. Williams, Hall, Newman, Letson, Haynes, Smith (C), Millican, Poole, Payne, Biddle, Morton, Hill, Knight, Morrow, McKee, Burke, Rich, Holley, McDowell, Sanderson, Gaines, Buskey (JL), Black (M), Rogers (F)

AN ACT

To create a "pilot project" for the Secretary of State to establish specifications for a uniform system of electronic voting and for the electronic transfer of election totals from counties to the Secretary of State's office.

Be It Enacted by the Legislature of Alabama:

Section 1. The Secretary of State shall establish a pilot project designed to develop and test specifications for a uniform system of electronic voting in Alabama. The pilot project shall provide for the immediate electronic transfer of election totals and individual write-in votes as well as other totals from the various counties of the state to the Secretary of State's office on a timely and economic basis. The project shall also study cost savings that could accrue to the state over a period of time by the reduction of printing costs that would be associated with the use of electronic equipment. The Secretary of State shall work with the various counties to determine which county or counties shall participate in the initial pilot project. Counties participating will assist in establishing the specifications for a uniform system of electronic voting and the electronic transfer of election totals.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:56 P.M.

Act No. 91-563

H. 959 — Reps. Hawkins, Turnham

AN ACT

To authorize the governing body of a municipality to exempt the homesteads of residents over 65 years of age, or who are retired due to permanent and total disability, or who are blind, in whole or in part from any ad valorem property tax increase imposed for public school purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of any municipality may, upon the request of the board of education of such municipality, grant, by resolution, an exemption in whole or in part from the increased portion of any ad valorem property tax which has been increased pursuant to the procedures specified in paragraph (f) of Amendment No. 373 to the Constitution of Alabama of 1901 for public school purposes, on homesteads of residents of such municipality over 65 years of age, or who are retired due to permanent

and total disability, regardless of age, or who are blind, as defined in Section 1-1-3, Code of Alabama 1975, regardless of age or whether such person is retired. Any homestead exemption granted pursuant to this act may be adjusted, rescinded or reinstated at any time upon the request of the board of education of such municipality by resolution of the governing body of such municipality. Any request made by a board of education regarding an exemption pursuant to this act shall be made by a resolution adopted by such board of education.

Section 2. The provisions of this act shall in no way annul or reduce exemptions provided under any other provisions of the Constitution and laws of Alabama.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:57 P.M.

Act No. 91-564

H. 109 — Rep. Freeman

AN ACT

To amend Sections 36-7-20 and 36-7-22 of the Code of Alabama 1975 so as to provide for the per diem allowance and mileage allowance for persons traveling on state business.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 36-7-20 and 36-7-22 of the Code of Alabama 1975 are hereby amended to read as follows:

“Section 36-7-20.

“The amount allowable to a person traveling inside the state of Alabama in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other like agencies for expenses other than transportation may be fixed by the governor at not less than \$50.00 nor more than \$75.00 per day, and such maximum or limit when fixed from time to time shall be uniform in operation as to all persons traveling within the state on official business. However, members of the Legislature shall be excluded from the provisions of this section.

"No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, the traveler shall be paid a meal allowance of fifteen percent of the regular per diem rate for a trip of from six to 12 hours' duration, and for travel in excess of 12 hours' duration, the traveler shall be paid one such meal allowances and one-fourth of the per diem allowance.

"The per diem allowance provided for in this section shall not be paid to an employee stationed at the same place in the state for a period in excess of two consecutive months. After two consecutive months the amount of the allowance shall be reduced to seventy-five percent of the regular per diem rate per day; provided, that the provisions of this section shall not apply to officers and employees of the state of Alabama when they incur expenses representing the state of Alabama in the encouragement and promotion of trade or industrial development; and, on such occasions, when such representation is properly approved, such persons shall be reimbursed for the actual expenses incurred and paid by them; provided further, that such representation must be approved in advance in writing by the governor or by the director of finance when so designated by the governor.

"The provisions of this section shall not apply to examiners or other persons designated by the superintendent of insurance to examine or cause to be examined the domestic insurance corporations qualified in this state when the expense incurred by such persons shall be paid by or collected or received from such corporations examined under the provisions of section 27-2-25.

"Section 36-7-22

"Persons traveling on official business for the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other like agencies in privately owned vehicles shall receive up to \$.30 per mile in lieu of actual expenses for transportation. The exact amount shall be fixed by the governor but in no instance shall such expense be less than \$.25 per mile."

Section 3. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 6:58 P.M.

Act No. 91-565

H. 136 — Rep. Flowers

AN ACT

To authorize and provide the procedure for certain full-time employees of Soil and Water Conservation Districts throughout Alabama to be covered under the state

employees' health insurance plan; to provide for the payment of the premiums for employees and their dependents; to provide for the termination of coverage under this act; and to require the state employees' insurance board to promulgate rules and regulations as may be required for the effective administration of the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of any county Soil and Water Conservation District may, by resolution legally adopted to conform to rules prescribed by the state employees' insurance board, elect to have its officers and employees who are full-time employees working at least a 40-hour work week and its retiring employees who worked full time at least a 40-hour work week during their active employment become eligible to participate in the state employees' health insurance plan. The term "officers" and "employees" as used in this act shall include those persons appointed or employed by the individual officers and performing their duties in public offices, but shall not include members of Soil and Water Conservation district boards, known as district supervisors who are expressly prohibited from participating in said health insurance plan.

Section 2. Each employee who is covered by the state employees' health insurance plan pursuant to this act shall be entitled to the coverage and benefits as though he were a state employee.

Section 3. (a) The cost of the insurance coverage for the employee shall be paid by the employer; however, each employee who chooses to have dependent coverage shall agree to pay the cost of coverage for his dependents. The chief fiscal officer of each employer shall pay to the state employees' insurance board to the credit of the state employees' insurance fund the amount of premiums paid by the employer and the employees.

Section 4. The agreement of any employer to have its officers and employees and its retiring employees to be covered under the state employees' health insurance plan shall be irrevocable except it can be terminated by the employer, by resolution of the governing body, signifying its intention and desire to withdraw from such plan in writing and delivering a copy of such resolution to the state employees' insurance board; provided, however, any officer or employee who becomes covered under such plan shall be entitled to a minimum of five consecutive years of coverage.

Section 5. The state employees' insurance board shall promulgate such rules and regulations as may be required for the effective administration of the provisions of this act.

Section 6. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:00 P.M.

Act No. 91-566

H. 380 — Rep. Harper

AN ACT

To amend Section 2(C) (111) of Act 90-764 of the 1990 Regular Session so as to provide for the retention of inspection and supervision fees to meet the financial responsibilities of the Public Service Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2(C) (111) of Act 90-764 of the 1990 Regular Session is hereby amended to read as follows:

**“111. PUBLIC SERVICE
COMMISSION:**

(a) Regulatory Services Program.....	4,744,648
(b) Administrative Services Program.....	3,409,268
(c) Transfer to State General Fund	250,000

Any law to the contrary notwithstanding, the Public Service Commission shall transfer \$250,000 from the Public Service Commission Fund to the State General Fund.

SOURCE OF FUNDS:

(1) Public Service Commission Fund.....	7,887,892
---	-----------

The above appropriation to the Alabama Public Service Commission shall be payable only from inspection and

supervision fees paid by utilities, radio companies, and transportation companies and such parts of percentages of fees and taxes paid by motor carrier or motor transportation companies as are now or may be set aside by law to be used by the Commission. Any surplus remaining in the Alabama Public Service Commission Fund at the end of the fiscal year in excess of \$600,000 shall be transferred to the State General Fund.

(2) Gas Pipeline Safety Fund....	374,024	
(3) Departmental Receipts.....	22,000	
(4) Federal and Local Funds...	120,000	
Total Public Service Commission	8,403,916	8,403,916"

Section 2. All law or parts of laws which conflict with this Act are hereby repealed and shall not affect the parts which remain.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:01 P.M.

Act No. 91-567

H. 572 — Reps. Bowling, Ford, Turnham, Burke, Smith (C), Lindsey, Laird, Richardson, Cosby, Penry, Poole, Johnson, Haynes, Millican, Payne, Carothers, Beasley, Newton (C), Crow, Zoghby, Rockhold, Gullatt, Hooper, Clark (J), McKee, Turner, Morrow

AN ACT

To provide that all procedures, protections and remedies afforded to a motor vehicle dealer shall also be available to a motor vehicle distributor whose distributor

agreement is terminated, canceled, not renewed, modified or replaced by a manufacturer or an importer.

Be It Enacted by the Legislature of Alabama:

Section 1. All procedures, protections and remedies afforded to a motor vehicle dealer under these Code sections 8-20-1 through 8-20-12, Code of Alabama 1975, shall be available to a motor vehicle distributor whose distributor agreement is terminated, canceled, not renewed, modified or replaced by a manufacturer or an importer.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:02 P.M.

Act No. 91-568

H. 295 — Reps. Beasley, Flowers, Hooper, Knight, Bowling, Harvey, Sanderford, White, Williams, Starkey, Rogers (J), Laird, Payne, Anderson, Zoghby, Rockhold, Smith (C), Newton (C), Rogers (F), Kennedy, Campbell, Cullins, Holley, McMillan, Clay, Walker, Willis, McKee, Crow, Cagle, Hogan, Blakeney, Black (L), Mikell, Thomas, Poole, McDaniel, Mathis, Warren, Holladay, Layson, Fuller, Turnham, Buskey (JE), Johnson, Carothers, Venable, Kvalheim

AN ACT

To amend Section 36-21-8, Code of Alabama 1975, relating to certain law enforcement officers retaining their badge and pistol as part of retirement benefits, to include certain law enforcement officers who are employees of the state forestry commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-21-8, Code of Alabama 1975, is hereby amended to read as follows:

“§36-21-8.

"Any person who, at the time of his retirement, is employed by the department of conservation and natural resources, the alcoholic beverage control board, or the state forestry commission as a law enforcement officer or investigator shall receive, as part of his retirement benefits, without cost to him, his badge and pistol."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:05 P.M.

Act No. 91-569

H. 488 — Rep. Hammett

AN ACT

To amend Sections 36-21-60, 36-21-61 and 36-21-63, Code of Alabama 1975, as amended, relating to the Peace Officers' Annuity and Benefit Fund, so as to provide for additional members to the board and to further provide for a quorum.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 36-21-60, 36-21-61 and 36-21-63, Code of Alabama 1975, as amended, are hereby further amended to read as follows:

"§36-21-60.

"When used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) ASSOCIATION. The Alabama peace officers' association as now or hereafter constituted.

"(2) BOARD. The board of commissioners of the fund and any successors thereto.

"(3) EXECUTIVE DIRECTOR. The executive director of the board.

"(4) FUND. The Alabama peace officers' annuity and benefit fund created in section 36-21-66.

"(5) MEMBER. Any peace officer who is a member of the fund and who is in good standing by virtue of having paid all sums required by this article to be paid by him.

"(6) **MEMBERSHIP SERVICE.** The period of employment of a member as a peace officer from the date he becomes a member.

"(7) **MONTH.** A period of 30 days.

"(8) **YEAR.** A period of 365 days; except, that the last year of employment as a peace officer, when over six months of membership service, shall constitute a year toward service retirement.

"(9) **ORDER.** The fraternal order of police.

"(10) **PEACE OFFICER.** A person duly sworn as a peace officer of the state of Alabama possessing powers of arrest and employed by the state, any political subdivision thereof or any municipal corporation therein who is required by the terms of his employment, whether such employment exists by virtue of election or appointment, to give his full time to the preservation of public order and the protection of life or property or the detection of crime in the state. Such term shall include enforcement officers for conservation laws, full-time coroners, and any pardon, parole or probation officer, but shall not include any district attorney, assistant district attorney, assistant attorney general, commissioner, deputy commissioner or any municipal inspector, county inspector or state inspector.

"(11) **PRIOR SERVICE.** The period of employment of a member as a peace officer from the time of his initial employment as such peace officer to September 12, 1969.

"(12) **QUALIFIED SERVICE.** The prior service plus membership service of a member.

"(13) **STATE.** The state of Alabama.

"(14) **STATE TROOPER ASSOCIATION.** The Alabama State Trooper Association, Inc., as now or hereafter constituted.

"(15) **ASSOCIATION OF CHIEFS OF POLICE.** The Alabama Association of Chiefs of Police, as now or hereafter constituted."

"§36-21-61.

"There is hereby created a board to be known as the board of commissioners of the Alabama peace officers' annuity and benefit fund. The board shall consist of five persons, one appointed by the governor of the state for a period of six years, one elected by the members of the association to serve for a period of four years, and one elected by the members of the order to serve for a period of four years and one elected by the members of the State Trooper Association, Inc., to serve for a period of four years and one designated by the Association of Chiefs of Police; provided, that the first person elected by the association shall serve for a period of two years. Thereafter each member of the board elected by the association shall

serve for a period of four years. Any member of the board shall be eligible to succeed himself. The term of each person appointed or elected to the board shall begin on the date of his appointment or election, and any person so appointed or elected whose successor shall not have been appointed or elected shall continue to serve until the appointment or election of such successor. Any member of the board elected by the association or the order who shall cease to be a member of the association or order, as the case may be, during his incumbency shall be replaced as a member of the board by a member of the association or order, as the case may be, who shall be appointed by its executive committee for the then unexpired term."

"§36-21-63.

"Any three members of the board shall constitute a quorum sufficient for the transaction of any business, and no business shall be transacted by the board and no action taken unless a quorum is present. The members of the board shall elect a chairman of the board and select an executive director, who shall be the chief executive officer of the board. The chairman of the board shall be a member of the board, but the executive director need not be such a member. The executive director shall serve as such at the pleasure of the board, which may employ such other agents and employees as the board may deem necessary. Any such employees shall be subject to the Alabama Merit System Act. The executive director shall be compensated for his services as such in an amount to be fixed by the board. The executive director shall have such powers and authority as shall be delegated to him by the board and shall perform such services as the board may direct. Any member of the board and any employee thereof who handles funds of the board shall be bonded by a surety company qualified to do business in the state in amounts sufficient to protect the board against any loss which may be incurred with respect to the funds handled."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:06 P.M.

Act No. 91-570

H. 477 — Rep. Zoghby

AN ACT

To authorize state agencies an administrative option to require the timely electronic remittance of immediately available funds by any person, corporation or

partnership required to satisfy an obligation due any agency of the state of Alabama amounting to one hundred thousand dollars (\$100,000) or more effective January 1, 1992, fifty thousand dollars (\$50,000) or more effective January 1, 1993 and twenty-five thousand dollars (\$25,000) or more effective January 1, 1994; establishes the date from which penalties and interest will be computed; and authorizes the promulgation of rules and regulations governing the manner in which such payments shall be made.

Be It Enacted by the Legislature of Alabama:

Section 1.

(a) Any state agency may establish a requirement, within its area of administrative responsibility, that every person, corporation or partnership, owing, in connection with an individual transaction consisting of any state of Alabama tax return, fee, report or other document, or any other obligation of indebtedness to the state, an amount of money, as specified in subsection (b) shall pay such tax liability, fee, or obligation to the state no later than the date such payment or remittance of funds is required by law, in funds which are immediately available to the state on the due date of payment.

(b) The determination as to which persons, corporations or partnerships shall be subject to the remittance provisions of this Act is based on individual payments made during a calendar year, rather than the aggregate of payments made during a calendar year. Persons, corporations or partnerships making an individual payment of:

(1) \$100,000 or more, will comply with the provisions of this Act for payments made during the calendar year 1992 and all years thereafter, subject to the provisions of subsection (c);

(2) \$50,000.00 or more, will comply with the provisions of this Act for payments made during the calendar year 1993; and all years thereafter, subject to the provisions of subsection (c);

(3) \$25,000.00 or more, will comply with the provisions of this Act for payments made during the calendar year 1994, and all years thereafter, subject to the provisions of subsection (c).

(c) When the provisions of subsection (a) are established, payment in immediately available funds and the reporting of such remittance shall be made in accordance with procedures established by the administering state agency for the indebtedness involved; such procedures shall continue to be the method of reporting and remittance until established otherwise by the administering state agency.

(1) Such procedures shall include the use of the Automated Clearing House system.

(2) The state administering agency shall coordinate with the state treasurer to insure the availability of such funds to the state on the due date of payment.

Section 2. Failure to make such payment or remittance in immediately available funds in a timely manner, or failure to provide such evidence of payment or remittance in a timely manner, shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law for delinquent or deficient tax, fee or obligation payments. If payment is timely made in other than immediately available funds, penalty, interest, and loss of applicable discount shall be added to the amount due from the due date of the tax, fee or obligation payment to the date that funds from the tax, fee, or obligation payment subsequently become available to the state, in accordance with state law for delinquent or deficient tax, fee or obligation payments.

Section 3. During the early stages of implementing this Act, not to exceed six months from the effective dates of implementation, to allow for possible late payments due to unexpected problems arising at financial institutions, Federal Reserve facilities, the Automated Clearing House system, or state agencies where it is proven that a good faith attempt was made and due diligence was exercised to initiate payment correctly and on a timely basis, the administering state agency is specifically authorized to waive all penalties, interest, or disallowed discount on late payments for a period not to exceed two business days following the due date of the payment.

Section 4. The administering state agencies, in coordination with the state treasurer, are authorized to prescribe and promulgate rules and regulations pertaining to their respective departments necessary for the administration of this Act. These rules and regulations will address, as a minimum, the responsibility of the administering agencies to notify taxpayers and others responsible for making payments under this Act, the identification of taxes, fees and other obligations of which payment is required under this Act, the procedures for making payments, payment alternatives, and proof of timely payment.

Section 5. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 6. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 7. This Act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:10 P.M.

Act No. 91-571

H. 258 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Retired Senior Volunteer Program for the fiscal year ending September 30, 1992, and to require an operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Retired Senior Volunteer Program from the State General Fund the sum of Three hundred seventeen thousand eighty-six dollars (\$317,086) which shall be distributed in the following manner: \$37,004 to the Foster Grandparent and Senior Companions Programs and \$280,082 to the Retired Senior Volunteer Programs.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of this report.

Section 3. This act shall become effective on October 1, 1991.

Approved July 29, 1991

Time: 7:11 P.M.

Act No. 91-572

H. 266 — Rep. Harper

AN ACT

To amend Act No. 90-556 of the Regular Session, 1990, as it amended Act No. 89-79 of the Regular Session, 1989, as it amended Act No. 88-947 of the 1st Extraordinary Session, 1988, as it amended Act No. 87-761 of the Regular Session, 1987, as it amended Section 4 of Act No. 86-645 of the 1st Extraordinary Session, 1986, concerning the repayment of funds transferred from Fund No. 305735 by said Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any provision of law to the contrary, Act 90-556 as passed by the Legislature in the 1990 Regular Session as it amended Act 89-79 of the 1989 Regular Session as it amended Act 88-947 of the 1988 First Extraordinary Session as it amended Act 87-761 of the 1987 Regular Session as it amended Section 4 of Act No. 86-645 as passed by the Legislature in the First Extraordinary Session of 1986 is hereby amended to read as follows:

“Section 4. A sum equivalent to eight million dollars (\$8,000,000) is hereby appropriated into Fund No. 305735 from the

State General Fund to be paid in quarterly allotments beginning October 1, 1987 for the fiscal year ending September 30, 1988. A sum equivalent to seven million dollars (\$7,000,000) shall be appropriated into Fund No. 305735 from the State General Fund at the discretion of the Legislature.”

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:12 P.M.

Act No. 91-573

H. 265 — Rep. Harper

AN ACT

To amend Section 41-4-17, Code of Alabama, 1975, as amended, so as to eliminate the State Capitol building from exception of rent.

Be It Enacted by the Legislature of Alabama:

SECTION 1. Section 41-4-17, Code of Alabama 1975, as amended, is hereby amended to read as follows:

“(a) The department of finance shall charge reasonable rent for the use and occupancy of any building owned by the state located in the Capitol complex and maintained by the department of finance or any other building maintained by the department of finance now or in the future. The director of finance shall establish such rent at rates which shall not be more than an amount sufficient to pay the reasonable costs of operation, maintenance, repair, renovation and any other necessary expenses.”

“(b) All rents collected, and income earned from such rents, ~~under the provisions of this section~~ shall be deposited into a revolving fund in the state treasury designated as the Capitol complex maintenance and repair fund, and the director of finance is authorized to make deposits and expenditures from time to time from such fund for said purposes.”

SECTION 2. The provisions of this Act are severable. If any part of this Act is declared to be invalid, such provision shall not affect, impair, or invalidate the parts which remain.

SECTION 3. All other provisions of law in conflict with the provisions of this Act are hereby expressly repealed.

SECTION 4. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved July 29, 1991

Time: 7:13 P.M.

Act No. 91-574

H. 267 — Rep. Harper

AN ACT

To amend Section 2-C-52 of Act 90-764 of the Regular Session, 1990, so as to eliminate the requirement for a transfer to the State General Fund of \$2,000,000 from the Capitol Complex Maintenance and Repair Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any provision of law to the contrary, Section 2-C-52 of Act 90-764 as passed by the Legislature in the 1990 Regular Session is hereby amended to read as follows:

“52. FINANCE, DEPARTMENT OF - CAPITOL COMPLEX MAINTENANCE AND REPAIR:

(a) Administrative Support Services Program, Estimated.....	9,442,497
---	-----------

SOURCE OF FUNDS:

(1) Capitol Complex Revolving Fund	9,442,497
--	-----------

Total Department of Finance - Capitol Complex Maintenance and Repair	9,442,497	9,442,497
--	-----------	-----------

The above appropriation includes funds for maintenance, repair and lease payments on the new Gordon Persons Building.”

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:14 P.M.

Act No. 91-575

H. 370 — Reps. Kennedy, Starkey, Zoghby

AN ACT

To amend certain sections in Title 40 of the Code of Alabama 1975, relating to crimes and offenses committed by employees of the Department of Revenue for violations of revenue and taxation statutes, regulations and procedure requiring confidentiality of information and certain exclusions therefrom; to amend Section 40-18-52, Code of Alabama 1975, to increase the punishment for violation of the confidentiality of income tax returns and income tax information and to amend Section 40-1-33, Code of Alabama 1975, so as to increase the punishment for violation of the confidentiality of all tax returns and information secured by the Department of Revenue; to amend Section 40-1-33, Code of Alabama 1975, to provide for the promulgation of rules and regulations permitting the exchange of tax information with other federal, state, county and municipal government tax agencies and associations of state tax agencies; and to specifically repeal Sections 40-23-29 (relating to confidentiality of sales tax returns), 40-23-84 (relating to confidentiality of use tax returns), 40-14-57 (relating to confidentiality of franchise tax returns), and 40-17-202 (relating to confidentiality of carriers and warehouse returns) of the Code of Alabama 1975 since those provisions would be duplicative of Section 40-1-33, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-18-52, Code of Alabama 1975, is hereby amended to read as follows:

“§40-18-52.

“(a) It shall be unlawful for any person to print or publish in any manner whatever the income tax return of any taxpayer or any part thereof or any information secured in arriving at the amount of the taxes due thereon or to divulge to any person whatever, except persons required or authorized to collect or audit or assist in collecting or auditing the returns or to use the information contained in any such return, or any information acquired in auditing any such return or enforcing the provisions of this title for any purpose except for the audit of such return and collection of any tax imposed by this title, and except in the normal course of obtaining collection of such tax; and any person violating the provisions of this section shall, for each act of disclosure, be guilty of a Class A misdemeanor and additionally, upon conviction thereof, any such person shall thereafter be ineligible to hold the office of commissioner or be an employee or agent of the department of revenue.

(b) All income tax returns and information secured by income tax officials or employees for the purpose of arriving at income taxes shall be kept under lock and key by the department of revenue, and any official or employee of the state or of any county who shall divulge the contents thereof except under order of court shall be guilty of a Class A misdemeanor and additionally, any person found guilty of violating this provision of this title, shall

thereafter be ineligible to hold the office of commissioner or be an employee or agent of the department of revenue.

(c) Nothing herein shall prohibit the use of income tax returns or income tax information by the department of revenue or, when and as authorized by the commissioner of revenue, county assessing officials, in enforcement, collection, and assessment of any tax levied or imposed by this title. Furthermore, nothing in this section shall preclude the inspection of returns by federal or foreign state agents as provided under Section 40-18-53.

Section 2. Section 40-1-33, Code of Alabama 1975, is hereby amended to read as follows:

“§40-1-33. Confidentiality of returns, statements, etc.

(a) All tax returns, financial statements and information secured by the department of revenue officials or employees thereof for the purpose of arriving at the amount of any tax administered by the department of revenue shall be kept under lock and key by the department of revenue, and any official or employee of the department of revenue or any other individual who shall divulge the contents or permit the examination thereof except for (1) the purpose of properly administering the tax laws of this state, (2) upon order or regulation promulgated by the commissioner of the department of revenue, (3) pursuant to the order of a court, or (4), for the information of the legislature shall have committed a Class A misdemeanor and additionally, shall thereafter be ineligible to be an employee or agent of the department of revenue; provided, that the provisions of this section shall not apply to returns filed and information secured under laws of this state levying or imposing excise taxes or inspection fees upon the sale of, use and other disposition of gasoline and other petroleum products.

“(b) The commissioner of revenue shall promulgate reasonable rules and regulations permitting and governing the exchange of tax returns, information, records and other documents secured by department of revenue officials or other employees, with tax officers of other Alabama state, municipal, and county government agencies, federal government agencies, any association of state government tax agencies, and any state government tax agencies of other states, provided however, that such exchange must be for one or more of the following purposes:

- (1) collecting taxes due,
- (2) ascertaining the amount of taxes due from any person, firm, or corporation, or
- (3) determining whether a person, firm or corporation is liable for, or if there is probable cause for believing such person, firm or

corporation might be liable for, the payment of any tax to such federal, state, county or municipal government agency.”

Section 3. The provisions of this Act are severable. If any part of this Act is held to be invalid or unconstitutional, such holding shall not affect the other parts which remain.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed including, but not limited to, the following: §40-23-29 (relating to confidentiality of sales tax information), §40-23-84 (relating to confidentiality of use tax information), and §40-14-57 (relating to confidentiality of franchise tax information), and §40-17-202 (relating to confidentiality of carriers and warehouse information), Code of Alabama 1975.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 29, 1991

Time: 7:15 P.M.

Act No. 91-576

H. 371 — Reps. Kennedy, Starkey, Zoghby

AN ACT

To amend Section 40-23-68 of the Code of Alabama 1975, to require out-of-state businesses with Alabama nexus to collect and report Alabama Use Tax on their sales to Alabama customers, and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-23-68 of the Code of Alabama 1975, is hereby amended to read as follows:

“§40-23-68.

“(a) The tax imposed by this article shall be due and payable to the department quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of tangible personal property became taxable hereunder, the first of such quarterly periods being the period commencing with March 1, 1939, and ending June 30, 1939.

(b) Every seller or person engaged in making retail sales of tangible personal property for storage, use or other consumption in this state, who:

(1) Maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business;

(2) Qualifies to do business or registers with the state to collect the tax levied by this chapter;

(3) Employs or retains under contract any representative, agent, salesman, canvasser, solicitor or installer operating in this state under the authority of the person or its subsidiary for the purpose of selling, delivering, or the taking of orders for the sale of tangible personal property or any services taxable under this chapter or otherwise solicits and receives purchases or orders by any agent or salesman;

(4) Solicits, pursuant to a contract with a broadcaster or publisher located in this state, orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdiction;

(5) Solicits orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities;

(6) Has, under a franchise or licensing arrangement or contract, a franchisee or licensee operating under its trade name;

(7) Solicits, pursuant to a contract with a cable television operator located in this state, orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state;

(8) Solicits orders for tangible personal property by means of a telecommunication or television shopping system which is intended by the person to be broadcast by cable television or other means of broadcasting, to consumers located in this state;

(9) Maintains any other contact with this state that would allow this state to require the seller to collect and remit the tax due under the provisions of the constitution and laws of the United States; or

(10) Distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the State of Alabama, shall be subject to all the provisions of this chapter and shall, on or before the twentieth day of the month following the

close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent quarterly period of three months, file with the department a return for the preceding quarterly period in such form as may be prescribed by the department showing the total sales price of the tangible personal property sold by such seller, the storage, use or consumption of which became subject to the tax imposed by this article during the preceding quarterly period and such other information as the department may deem necessary for the proper administration of this article.

(c) The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. The department, if it deems it necessary in order to insure payment to the state of the amount of tax herein required to be collected by sellers, may require returns and payment of such amount of tax for other than quarterly periods. Returns shall be signed by the seller or his duly authorized agent but need not be verified by oath.

(d) Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the tax imposed by this article, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect the tax, shall on or before the twentieth day of the month following the close of the first quarterly period as above defined, and on or before the twentieth day of the month following each subsequent period of three months, file with the department a return for the preceding quarterly period in such form as may be prescribed by the department showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the tax imposed by this article during the preceding quarterly period, and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the tax, and such other information as the department may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return. The department, if it deems it necessary in order to insure payment to the state of the amount of such tax, may require returns and payment for other than quarterly periods. Returns shall be signed by the person liable for the tax or his duly authorized agent, but need not be verified by oath.

(e) For the purpose of the proper administration of this article and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state unless the person selling such

property shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale and it shall be further presumed that tangible personal property shipped to this state by the purchaser thereof was purchased from a retailer on and after March 1, 1939, for storage, use or other consumption in this state. Any seller making cash and credit sales for storage, use or other consumption in Alabama may report such cash sales and shall thereafter include in each quarterly report all credit collections made during the preceding quarter, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the tax to be paid until collections of such credit sales shall have been made."

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective upon the first day of the second month following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:16 P.M.

Act No. 91-577

H. 372 — Rep. Mikell

AN ACT

To provide a statutory basis for the recovery of unclaimed property from out-of-state holders when such holders did not originate the unclaimed property and are merely intermediaries, and to clarify that the address of the unclaimed property holder is unknown, and to provide that subsection (a) shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

Be It Enacted by the Legislature of Alabama:

Section 1.

(a) All intangible property, including but not limited to any interest, dividend, or other earnings thereon, less than lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other

person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within three years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this State as unclaimed property if:

(1) The address of the owner is unknown;

and

(2) The person or entity originating or issuing the intangible property is this State or any political subdivision of this State, or is incorporated, organized or created in this State.

(b) The provisions of subsection(a) shall not apply to property which is or may be presumed abandoned and subject to the custody of this State pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (a).

(c) The provisions of subsection (a) shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned."

Section 2. The provisions of the Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:17 P.M.

Act No. 91-578

H. 217 — Rep. Harper

AN ACT

To make an appropriation to the Department of Youth Services for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated to the Department of Youth Services for the fiscal year ending September 30, 1992, the following amounts from the Alabama Special Educational Trust Fund (ASETF) and Federal and Local Funds:

	Earmarked		
	<u>ASETF</u>	<u>Funds</u>	<u>Total</u>
YOUTH SERVICES, DEPARTMENT OF:			
(a) Youth Services Program....			14,943,244
SOURCE OF FUNDS:			
(1) ASETF	13,621,122		
(2) Federal and Local Funds...		1,322,122	
Total Department of Youth Services.....	13,621,122	1,322,122	14,943,244

SECTION 2. In addition to the above appropriation, there is also hereby conditionally appropriated for the fiscal year ending September 30, 1992, the sum of \$972,295 from the ASETF to continue the Community Placement and Supervision Program plus meet increased current operating expenses. This appropriation is conditioned upon the availability of funds in the ASETF, the recommendation of the State Finance Director, and the approval of the Governor.

SECTION 3. The above appropriation is made for educational purposes which shall include but shall not be limited to providing social and educational services plus facilities to youth referred to the program and providing for the education of such individuals including educating youth to turn away from a life of crime.

SECTION 4. The Department of Youth Services is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1992.

SECTION 5. The provisions of this Act are severable. If any section, paragraph, sentence, clause, provision, or portion of this Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

SECTION 6. This Act shall become effective on October 1, 1991.

Approved July 29, 1991

Time: 7:18 P.M.

Act No. 91-579

H. 84 — Reps. Laird, Layson, Hamilton,
Richardson

AN ACT

To amend Sections 32-6-270 and 32-6-272 of the Code of Alabama 1975, so as to further define the term "Fire Fighter" and to provide further for their distinctive motor vehicle license plates.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-6-270 of the Code of Alabama 1975, is hereby amended to read as follows:

"§32-6-270.

"(a) As used in this division, unless the context clearly requires a different meaning: 'Fire fighter' means a current member or members of, or a retired member or members from, a paid, part-paid or volunteer fire department of a city, town, county or other subdivision of the state or civilian federal fire fighters or of a public corporation organized for the purpose of providing water, water systems, fire protection services or fire protection facilities in the state; and such words shall include the chief, assistant chief, wardens, engineers, captains, firemen and all other officers and employees of such departments who actually engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action.

"(b) As used in this division, the term 'retired volunteer fire fighter' means someone that has retired from performing the required duties of a fire fighter on a voluntary basis at a certified volunteer fire department, wherein, those duties were performed for at least 10 years and said person has attained the age of 55 years old."

Section 2. Section 32-6-272 of the Code of Alabama 1975, is hereby amended to read as follows:

"§32-6-272.

"The distinctive license plates here provided for shall be prepared by the commissioner of revenue and shall be issued through the judge of probate or license commissioner of the several counties of the state in like manner as are other motor vehicle license plates or tags and such officers shall be entitled to their regular fees for such service. The chief of each certified volunteer fire department and each federal fire department shall submit to the Alabama forestry commission by October 1 of each year a list of fire fighters from his department who are eligible for the distinctive license plate or tag. The fire fighters' personnel standards and education

committee shall submit to the Alabama forestry commission by October 1 of each year a list of certified fire fighters who are members of paid or part-paid fire departments and who are eligible for such distinctive license plates or tags. The forestry commission shall submit to the probate judge or license commissioner of each county by December 1 of each year a list of the certified fire fighters in the county who are eligible for the distinctive license plate or tag under this division. Applicants for such distinctive plates shall present to the issuing official proof of their identification. If such applicant's name is on the list furnished by the Alabama forestry commission to the probate judge or license commissioner, the fire fighter shall be issued the requested number of distinctive license plates or tags upon the payment of the regular license fee for tags, as provided by law, but shall not be required to pay the \$3.00 fee. The distinctive license plates or tags so issued shall be used only upon and for personally-owned, private, passenger vehicles (to include station wagons and pick-up trucks) registered in the name of the fire fighter making application therefor, and when so issued to such applicant shall be used upon the vehicle for which issued in lieu of the standard license plates or license tags normally issued for such vehicle."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:19 P.M.

Act No. 91-580

H. 794 — Rep. Turner

AN ACT

To further provide for and regulate commercial fishing in Alabama; to amend Sections 9-11-141 and 9-11-142, Code of Alabama 1975, so as to provide for an exception (to the otherwise applicable licensing requirements of said sections) for certain assistants; and to amend Section 9-11-143, Code of Alabama 1975, so as to provide for an increase in certain license and issuance fees, relating to use of certain commercial fishing equipment.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-141, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"Section 9-11-141.

"Prior to using any nets, seines, traps or other commercial fishing devices, as specified in this article, a person shall, except to the extent otherwise provided for in this article, have first secured a license permitting the use of such fishing gear, such license to be issued in the manner prescribed by this article."

Section 2. Section 9-11-142, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"Section 9-11-142.

"It is the intent of this article that the license provided herein for the taking of commercial or nongame fish from the public impounded waters and navigable streams of the state of Alabama shall be issued upon an individual basis only, and, except to the extent otherwise provided for in this article, each person engaging in such activities or operations shall be required to purchase said license. It is hereby provided, however, that each person licensed pursuant to the provisions of Sections 9-11-141 and 9-11-142 may be assisted by one "helper" or assistant, who shall, while in the course of such assistance, be located in the licensed person's boat and/or shall be accompanied by the licensed person at all times. While engaged in providing such assistance, said "helper" or assistant shall be exempt from the otherwise applicable licensing requirements of Sections 9-11-41 and 9-11-142."

Section 3. Section 9-11-143, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"Section 9-11-143.

"The judge of probate, the commissioner of licenses or such person or persons duly appointed by the commissioner of conservation and natural resources and so authorized by him to issue the license provided by this article shall issue such a license to any resident of this state complying with the provisions of this article and shall sign his name and shall require the person to whom the license is issued to sign his name on the margin thereof. The license for the use of such commercial fishing gear as authorized under the provisions of this article shall be \$100.00. A resident of the state of Alabama, as applicable to this article, shall be a person who has resided continuously in this state for 12 months next preceding the application for said license. The person or persons issuing said licenses shall keep in a book or on specially prepared sheets to be furnished by the commissioner of conservation and natural resources a correct and complete record of all licenses issued, which record shall remain in his office and be open to inspection by the public at all reasonable times. Judges of probate and other persons authorized and designated to issue licenses shall retain out of the money received for each license issued by them under the provisions

of this article \$1.00 for each license issued, which amount shall cover services required by the provisions of this article, and shall remit the balance to the commissioner of conservation and natural resources on the first of each month. Said judges of probate and all other duly authorized and designated persons shall report to the commissioner of conservation and natural resources of the state of Alabama on the first day of each month the number and kind of licenses issued under this article and the name and post office address of the person or persons to whom issued, giving opposite each name the serial number of the license so issued and the amount of money remitted; provided, that if any such license is issued by any probate judge, license commissioner or any other officer who is paid a salary for the performance of his duties as such officer, he shall be required to remit the entire amount collected to the commissioner of conservation and natural resources, except the amount charged by the issuing officer for the issuance of such license, and this amount shall be remitted to the treasurer of the county in which said license was paid."

Section 4. The provisions of this Act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective October 1, 1991 upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:20 P.M.

Act No. 91-581

H. 79 — Rep. Starkey

AN ACT

To amend Section 11-43-80, Code of Alabama 1975, which authorizes a municipal governing body to employ the mayor as superintendent of the municipal utility system, so as to authorize said municipal governing body to establish the mayor's compensation for serving in such position.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-43-80, Code of Alabama 1975, is hereby amended to read as follows:

"§11-43-80.

“(a) The mayor shall have the powers and perform the duties provided by this title and by other applicable provisions of law and shall keep an office in the city or town.

“(b) The mayor shall receive such salary as the council may prescribe, which must be fixed by the council not less than six months prior to each general municipal election; provided, however, the six-month requirement in this section may be waived when necessary to comply with a mandate by the U.S. Justice Department pursuant to the Voting Rights Act of 1965, as amended, or with an order issued by a state or federal court.

“(c) In municipalities which own and operate light and power systems, municipal water systems, municipal sewage systems and municipal gas systems, one or any of them, may, by resolution of the governing body duly entered in its minutes, require the mayor to act as superintendent of such system or systems and to give so much of his time thereof as the governing body may direct. In any municipality in which a municipal board or municipal public corporation owns and operates a municipal light and power system, municipal water system, municipal sewage system and municipal gas system, one or any of them, such board or municipal public corporation may, by resolution duly entered in its minutes, employ the mayor to act as superintendent of such system or systems and to give so much of his time thereto as such board or corporation may direct. The mayor, as such superintendent of such system or systems, shall serve as purchasing agent and make all purchases authorized by the governing body, board or municipal public corporation therefor, and shall keep a check on meter readings and bids for service of the system and see that the collections thereof are made. He shall see that the system or systems are kept in proper repair and operation, shall keep an inventory showing the supplies and equipment on hand for such system or systems, shall keep a full and complete monthly financial statement of all operation costs and receipts and keep a proper inventory of the fiscal assets of such system or systems and shall handle all such data and information relative to such system or systems available for the governing body, board or municipal public corporation at such times as it shall require, but not less frequently than once every three months. For his service as superintendent of such system or systems, the mayor shall be paid, in addition to his salary as mayor, such sum as the governing body, board or municipal corporation shall deem reasonable. The governing body, board or municipal corporation may, at any time it deems best, dispense with the mayor's service as superintendent.

“(d) The provisions of this section shall be curative and retroactive, and any employment of any mayor as superintendent of any such utility or utilities heretofore made by any such governing

body, board or municipal public corporation, and any such salary heretofore paid to any mayor by any such governing body, board or municipal corporation for his services as superintendent of such system or systems, is hereby validated.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:21 P.M.

Act No. 91-582

H. 197 — Rep. Powell

AN ACT

To amend Section 34-32-9, Code of Alabama 1975, relating to the qualifications for registration as professional soil classifiers, so as to provide further for such qualifications.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-32-9, Code of Alabama 1975, is hereby amended to read as follows:

“§34-32-9.

“(a) An application of registration as a professional soil classifier shall be made to the board on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter.

“(b) An applicant for registration as a professional soil classifier shall have all the following qualifications:

“(1) Be of high ethical professional standards.

“(2) As a professional soil classifier, be qualified pursuant to either of the following:

“a. A graduate of an approved four-year college curriculum leading to a bachelor of science degree, or its equivalent, in which the applicant has majored in a soils curriculum; and with a specific record of an additional one year or more of experience in soil classification of a grade and character which indicates to the board that the applicant may be competent to practice as a soil classifier; and be otherwise qualified. Teaching soil classification courses in a college or university offering an approved four-year soil science or economic curriculum should be considered as experience in soil investigations;

"b. A graduate of any approved four-year college curriculum, leading to a bachelor of science degree; and with a specific record of an additional two years or more experience in soil classification of a grade and character which indicates to the board that the applicant may be competent to practice as a soil classifier; and be otherwise qualified.

"(3) Sit for and pass an examination before the board or its authorized representatives. Such examination will be held at certain specified times and of such scope as prescribed by the board. Generally, the examination shall test the applicant's knowledge basic to soil classification and his ability to apply that knowledge and to assume responsible charge in the professional practice of classification. An applicant failing in an examination may be examined again upon filing a new application and the payment of the application fee fixed by this chapter.

"(c) The board, upon application therefor on its prescribed form and upon the payment of registration fees fixed by this chapter, may issue a certificate as a registered professional soil classifier without written examination to any person holding a certificate as a registered professional soil classifier issued to him by any state or country having similar requirements, when the applicant's qualifications meet the other requirements of this chapter and the rules established by the board.

"(d) A qualified professional soil classifier practicing soil classification on May 27, 1981, may be certified upon approval of the board, if he applies to the board prior to one year after enactment.

"(e) In determining the qualifications of an applicant for certification, a majority vote of the board is required.

"(f) An applicant who has passed the examination or has otherwise qualified as a professional soil classifier upon payment of the registration fee fixed by this chapter, shall have a certificate as a registered professional soil classifier.

"(g) Any applicant who is denied registration or authorization shall, in writing be so notified and informed of the reason therefor. Within 30 days after receipt of notice, such applicant may make written request to the board for a hearing which, if granted, shall be heard by the board."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:22 P.M.

Act No. 91-583

H. 352 — Reps. Buskey (JE), Grayson,
McDowell

AN ACT

To amend Section 17-8-25, Code of Alabama 1975, relating to the number of ballots to be provided for each voting place, so as to decrease the required number.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-8-25, Code of Alabama 1975, is hereby amended to read as follows:

“§17-8-25.

“There shall be provided for each voting place at least 50 ballots for each 50 registered electors at that place.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:25 P.M.

Act No. 91-584

H. 180 — Reps. Turnham, Fuller, Flowers

AN ACT

Relating to persons who are required to register with the U. S. Selective Service System, so as to provide that such persons may not enroll in institutions of higher learning nor be offered employment or advancement or promotion by the State of Alabama unless such persons offer proof that they have so registered, and to authorize the State Personnel Board and the institutions of higher learning to promulgate necessary rules and regulations.

Be It Enacted by the Legislature of Alabama:

Section 1. No person who is required to register with the Selective Service System under the United States Military Selective Service Act (50 U.S.C. App. 453) shall:

(a) Be offered employment by the State of Alabama without proof of such registration; nor

(b) Be eligible to initially enroll in any state postsecondary institution of higher learning without proof of such registration.

Section 2. No person who has failed to register as required by the United States Military Selective Service Act (50 U.S.C. App. 453) and who is employed by this state as of the effective date of this act shall be promoted or reclassified to a higher position without proof of such registration.

Section 3. The State Personnel Board and the institutions of higher learning in this state are hereby authorized to promulgate such rules and regulations as they deem appropriate to effectuate the intent of this act in the manner prescribed by the state administrative procedure statutes. Certification by the applicant of his registration status shall be deemed adequate to effectuate the intent of this act.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective on January 1, 1992.

Approved July 29, 1991

Time: 7:26 P.M.

Act No. 91-585

H. 469 — Rep. Drake

AN ACT

Providing that certain members of the retirement systems of Alabama may purchase credit for certain previous service, not to exceed eight years service, rendered to a county as a county solicitor and prescribing certain conditions for purchasing such credit.

Be It Enacted by the Legislature of Alabama:

Section 1. Any active and contributing member of any member unit of the State of Alabama retirement systems who has been such a member for at least one year may hereby claim and purchase credit in his or her respective member unit of the State of Alabama retirement systems for service rendered to any county government as a county solicitor. Such retirement systems member shall be allowed to purchase such prior service for a period of prior service time not to exceed eight years total service as county solicitor.

Section 2. Any member eligible to claim and purchase credit for such county service under Section 1 of this act shall be awarded such credit under such member unit of the retirement systems of Alabama provided he or she shall pay into his or her respective

retirement system fund prior to said member's date of retirement and not later than October 1, 1993, a sum of money equal to a percentage of the member's current annual compensation or average final salary, whichever is higher; the applicable percentage of said annual compensation or average final salary, whichever is higher shall be the sum of the prevailing percentage rates of employer and member contributions as required by the most recent actuarial valuation for each year of service purchased, not to exceed eight years.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:27 P.M.

Act No. 91-586

H. 584 — Rep. Haynes

AN ACT

To amend section 37-2-41, section 37-4-23 and section 37-4-116 of the Code of Alabama 1975, relating to the inspection and supervision fees paid by transportation, utility, and radio utility companies, so as to provide further for such fees; and to provide for the future compensation of certain employees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-2-41, section 37-4-23 and section 37-4-116 of the Code of Alabama 1975, are hereby amended to read as follows:

“§37-2-41.

“(a) Each transportation company doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations shall pay quarterly to the commission, beginning November 1, 1985 and on each quarter thereafter, February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business during the next preceding fiscal year. Such inspection and supervision

fees shall be paid by such transportation companies in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fees shall be measured by the amount of gross receipts of each such transportation company for the fiscal year next preceding the dates herein fixed for the payment of the same, except that in case of such transportation companies engaged in interstate business, the fees shall be measured by the gross receipts of such transportation companies from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.85 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.35 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; a fee of \$1.85 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof, but in no case shall said fee be less than \$25.00, which shall be the minimum inspection and supervision fee to be paid by any transportation company. However, all transportation companies with gross intrastate receipts in excess of \$60,000,000.00 per calendar quarter will continue to submit the quarterly payment of fees, as due on the intrastate gross receipts of the fiscal year ended September 30, 1984, through August 1, 1985. On September 1, 1985 such companies shall pay fees due for the calendar quarter ended December 31, 1984. Beginning November 1, 1985 such companies shall pay over on a quarterly basis beginning with the calendar quarter ended March 31, 1985 and henceforth for the calendar quarters ending June 30, September 30, December 31 and March 31 of each year on the following February 1, May 1, August 1 and November 1 of each year respectively; provided, however, that the maximum amount so to be paid for any one year by any such transportation company operating any railroad, or part of a railroad in this state, shall be \$5,000.00. The commission shall keep a true record of all such amounts so paid to it, under this subsection and subsection (b) of this section, but said amounts, when received by the commission, shall be promptly paid over to the treasurer, and shall be held in the commission's operating fund by, and shall be paid out by the treasurer in payment of expenses incurred by the commission under this title upon warrants drawn as provided by law upon the treasurer and approved as required by law. Payment of the supervision and inspection fees provided for hereunder shall in all respects be governed by the provisions of subsections (c) and (d) of this section.

“(b) In lieu of the inspection and supervision fees provided for in subsection (a) of this section, each provider of pay telephone service over instruments owned and/or operated by local exchange companies, interexchange companies, and customer-owned, coin-operated telephone service providers doing business in the state and subject to the control and jurisdiction of the commission, may elect to pay a fee for the inspection and supervision of such pay telephone or coin-operated telephone service business during the next preceding fiscal year. Such inspection and supervision paid in lieu of the fees provided for in subsection (a) of this section, shall be in addition to any and all property, franchise, license, intangible and other taxes, fees, and charges now or hereafter provided by law, and shall be measured by the number of instruments in operation during such fiscal year within the state of Alabama. Such fee shall be \$10.00 per instrument and no other inspection and supervision fee shall be due upon any such instrument.

“(c) Supervision and inspection fees provided for in this article shall be in default after February 1, May 1, August 1 and November 1 of each year, if not paid prior to or on that date. In the event that the amount payable by any transportation company for any quarter cannot be ascertained on or before the dates herein prescribed for payment each year, such transportation company shall, in any event, pay the minimum supervision and inspection fee herein provided and in addition such part of any additional supervision and inspection fee as may be ascertainable on or before the date of default; and when any further or additional amount payable for such quarter can be ascertained, the same shall be paid within 30 days after it becomes possible to ascertain the same. Any transportation company failing in whole or in part to pay any supervision or inspection fee, or part thereof, due by it within any of the times herein prescribed for payment of the same, shall be in default and shall be liable to a penalty of not exceeding \$50.00 per day, to be recovered by suit of the state, for every day it thereafter remains in default, and such penalty may be recovered together with the supervision and inspection fee in default, in a single action.

“(d) Any transportation company may, at their own election, pay over the total fees due for the preceding fiscal year on November 1 of each year. Such payment to be governed by the provisions of subsections (c) and (e) of this section.

“(e) The state shall have a lien upon all the property in this state of any transportation company for the payment of the supervision and inspection fees provided for in this chapter to be paid and the penalties in this chapter provided for, which lien shall be superior to all other liens, except the lien for state, county and municipal taxes.

“§37-4-23.

“(a) Each utility, as defined in this chapter, doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations, shall pay quarterly to the commission beginning November 1, 1985 and on each quarter thereafter February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business. Such inspection and supervision fees shall be paid by such utilities in addition to any and all property, franchise, licence, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fee shall be measured by the amount of the gross receipts of each such utility for the fiscal year next preceding the dates fixed in this article for the payment of the same, except that in case of such utilities engaged in interstate business, the fees shall be measured by the gross receipts of such utilities from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.85 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.35 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; and a fee of \$1.85 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof; but in no case shall said fee be less than \$25.00, which shall be the minimum inspection and supervision fee to be paid by any utility. However, all utilities with gross intrastate receipts in excess of \$60,000,000.00 per calendar year will continue to submit the quarterly payment of fees, as due on the intrastate gross receipts of the fiscal year ended September 30, 1984, through August 1, 1985. On September 1, 1985 such utilities shall pay fees due based on gross receipts for the calendar quarter ended December 31, 1984. Beginning November 1, 1985 such companies shall pay over on a quarterly basis fees based on gross receipts for the calendar quarter ended March 31, 1985 and henceforth for the calendar quarters ending June 30, September 30, December 31 and March 31 of each year on the following February 1, May 1, August 1 and November 1 of each year respectively. The commission shall keep a true record of all such amounts so paid to it, but said amounts when received by the commission shall be promptly paid over to the treasurer and shall be held in the commission's operating fund by him except those funds identified in section 37-4-88 which are designated for the 'gas pipeline safety fund,' and shall be paid out by the treasurer in payment of expenses incurred by the commission under this title upon warrants drawn by the comptroller

on the treasurer, and approved by said commission or a majority thereof. Subject to the provisions of the merit system, the commission shall have power to employ such assistants as may be found necessary to aid the commission in such regulation, and to make payment for any necessary traveling or incidental expenses incurred in connection with such regulation, which shall be paid out of said fund as aforesaid, so far as it may be available. Payment of the supervision and inspection fees provided for under this section shall in all respects be governed by the provisions of section 37-4-24.

“§37-4-116.

“(a) Each radio utility, as defined in this article, doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations, shall pay quarterly to the commission, beginning on November 1, 1988, and on each quarter thereafter, February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business during the next preceding fiscal year. Such inspection and supervision fees shall be paid by such radio utilities in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fees shall be measured by the amount of the gross receipts of each such utility derived from the sale of air time for the fiscal year next preceding the dates herein fixed for the payment of the same, except that in case of such utilities engaged in interstate business the fee shall be measured by the gross receipts of such utilities from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: a fee of \$2.85 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.35 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; and a fee of \$1.85 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof; but in no case shall said fee be less than \$50.00, which shall be the minimum inspection and supervision fee to be paid by any radio utility, and this amount shall in any event be paid over on a quarterly basis beginning November 1, 1988, at which time the first amount due based upon the remainder of the fiscal year January 1, 1988, through September 30, 1988, is to be paid, and then to be paid on each quarter thereafter on February 1, May 1, August 1, and every year thereafter to be paid over on November 1, February 1, May 1, and August 1 for the preceding fiscal year. The commission shall keep a true record of all such amounts so paid to it, but said amounts when received by the

commission shall be promptly paid over to the treasurer and shall be held in the commission's operating fund, and shall be paid out by the treasurer in payment of expenses incurred by the commission under this title, upon warrants drawn by the comptroller on the treasurer, and approved by said commission or a majority thereof. Subject to the provisions of the merit system, the commission shall have power to employ such assistants as may be found necessary to aid the commission in such regulation, and to make payment for any necessary traveling or incidental expenses incurred in connection with such regulation, which shall be paid out of said fund as aforesaid, so far as it may be available.

"(b) Supervision and inspection fees provided for in this chapter shall be in default on or after the dates herein prescribed of each year, if not paid prior to that date. Any radio utility failing, in whole or in part, to pay any supervision or inspection fee, or part thereof, due by it within the time prescribed in this section for the payment of the same, shall be in default, and shall be liable to a penalty of not exceeding \$5.00 per day, to be recovered by suit of the state, for every day it thereafter remains in default, and such penalty may be recovered together with the supervision and inspection fee, in default, in a single action. And the state shall have a lien upon all the property in this state of any radio utility for the payment of the supervision and inspection fees provided by this article, to be paid, and the penalties in this section provided for, which lien shall be superior to all other liens, except the lien for state, county and municipal taxes.

"(c) Any radio utility may, at its own election, pay over the total fee due for the preceding fiscal year on November 1 of each year, such payment to be governed by the provisions of subsection (b) of this section.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed and shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:28 P.M.

Act No. 91-587

H. 356 — Reps. McDaniel, Rich

AN ACT

To provide for participation of employees of regional and local legislative delegation offices in the state employees' retirement system.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Any person who is employed full-time by a regional or local legislative delegation office shall be deemed to be an "employee" of the state of Alabama, as defined in section 36-27-1. From the date he assumes his duties, any such person shall be deemed to be a "member" of the state employees' retirement system, as defined in section 36-27-4; provided, that the required contributions are made to the system.

(b) Any person serving as of October 1, 1991, shall be entitled to receive credit toward his retirement allowance for any service previously rendered as an employee of a regional or local legislative delegation office, and any person employed by such offices thereafter shall become a member of the employees' retirement system as a condition of employment. If he elects to do so, he may notify the board of control of the employees' retirement system of his intention to claim such credit within six months from October 1, 1991, and shall make any and all contributions, plus eight percent interest, compounded annually, required by the regulations of the board within six months after such notification is made. From the time he so elects, regular deductions shall be made from the salary of each member in the manner prescribed by law.

(c) The regional or local legislative delegation office or entity that funds said office shall contribute on account of the participation of its employees the employers contribution rate as established by the actuary for regular employees of the state.

The contribution rate so computed, based upon the payroll of the employees, shall be certified by the board of control to the fiscal officer of each regional or local delegation office. The fiscal officer of each such office shall pay to the state treasurer the amount certified by the board as payable under the provisions of this section and the state treasurer shall credit such amounts to the appropriate funds of the retirement system.

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:29 P.M.

Act No. 91-588

H. 392 —Reps. Dolbare, Fuller, Turner, Laird

AN ACT

To permit a domestic limited partnership to merge with one or more domestic limited partnerships, corporations or certain other business entities; to provide for the requirements, effects and procedures of merging said entities; to provide for certain filings and reports and the contents and effect of said filings and reports; to provide for service of process; and to provide for the vesting of certain rights, privileges, powers, property, liabilities and duties.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) As used in this act, “other business entity” means a corporation or a partnership without limited partners or a limited partnership other than a domestic limited partnership.

(b)(1) Pursuant to an agreement of merger, a domestic limited partnership may merge with or into one (1) or more domestic limited partnerships or other business entities formed or organized under the laws of the State of Alabama or any other state or the United States or any foreign country or other foreign jurisdiction, with such domestic limited partnership or other business entity as the agreement shall provide being the surviving or resulting domestic limited partnership or other business entity. Unless otherwise specifically provided for in the partnership agreement, a merger shall be approved by each domestic limited partnership which is to merge:

a. By all general partners; and

b. By the limited partners or, if there is more than one (1) class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than fifty percent (50%) of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

(2) Notwithstanding prior approval, an agreement of merger may be terminated prior to filing of a certificate of merger with the secretary of state or amended pursuant to a provision for such termination or amendment contained in the agreement of merger.

(c) If a domestic limited partnership is merging under this act, the domestic limited partnership or other business entity surviving or resulting in or from the merger shall file a certificate of merger in the office of the secretary of state. If a domestic limited partnership is filing said certificate of merger, the certificate of merger must be signed by at least one general partner of the domestic limited partnership, or if the certificate of merger is

being filed by another business entity, the certificate of merger must be signed by a person authorized by such other business entity. The certificate of merger shall state:

(1) The name, jurisdiction and date of formation or organization of each of the domestic limited partnerships or other business entities which is to merge;

(2) That an agreement of merger has been approved and executed by each of the domestic limited partnerships or other business entities which is to merge;

(3) The name of the surviving or resulting domestic limited partnership or other business entity;

(4) The future effective date or time (which shall be a date or time certain) of the merger if it is not to be effective upon the filing of the certificate of merger;

(5) That the agreement of merger is on file at a place of business of the surviving or resulting domestic limited partnership or other business entity, and shall state the address thereof;

(6) That a copy of the agreement of merger will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge; and

(7) If the surviving or resulting entity is not a domestic limited partnership or corporation organized under the laws of the State of Alabama, a statement that such surviving or resulting other business entity agrees that it may be served with process in the state in any action, suit or proceeding for the enforcement of any obligation of any domestic limited partnership which is to merge, irrevocably appointing the secretary of state as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the secretary of state. The plaintiff in any such action, suit or proceeding shall furnish the secretary of state with the address specified in the certificate of merger provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the secretary of state, and the secretary of state shall notify such surviving or resulting other business entity at all such addresses furnished by the plaintiff.

(d) Unless a future effective date or time is provided in a certificate of merger, in which event a merger shall be effective at any such future effective date or time, a merger shall be effective upon the filing in the office of the secretary of state of a certificate of merger.

(e) A certificate of merger shall act as a certificate of cancellation for a domestic limited partnership which is not the surviving or resulting entity in the merger.

(f) When any merger shall have become effective under this section, for all purposes of the laws of the state, all of the rights, privileges and powers of each of the domestic limited partnerships and other business entities that have merged, and all property, real, personal and mixed, and all debts due to any of the domestic limited partnerships and other business entities, as well as all other things and causes of action belonging to each of such domestic limited partnerships and other business entities, shall be vested in the surviving or resulting domestic limited partnership or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited partnership or other business entity as they were of each of the domestic limited partnerships and other business entities that have merged, and the title to any real property vested by deed or otherwise in any of such domestic limited partnerships and other business entities, shall not revert or be in any way impaired by reason of this act; but all rights of creditors and all liens upon any property of any of the domestic limited partnerships and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the domestic limited partnerships and other business entities that have merged shall thenceforth attach to the surviving or resulting domestic limited partnership or other business entity, and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving or resulting entity in the merger, shall not require such domestic limited partnership to wind up its affairs under Section 10-9A-142 of the Code of Alabama 1975, or pay its liabilities and distribute its assets under Section 10-9A-143 of the Code of Alabama 1975.

(g) Each certificate of merger required by this act to be filed with the secretary of state shall also be recorded in the office of the probate judge in the county in which the limited partnership is required to file a certificate of limited partnership and in each county in which a limited partnership which is a party to such merger is required to file a certificate of limited partnership; provided, however, that when such certificate is filed by the secretary of state, the matters covered by such certificate shall be effective as stated therein, and a copy of such certificate certified by the secretary of state shall be conclusive evidence of the matters covered therein. The probate judge may charge five dollars (\$5.00) plus fifty cents (50¢) per page in excess of five (5) pages for such filing.

Section 2. Insofar as they are applicable, the provisions and requirements of article 5 of chapter 2A of Title 10, relating to mergers of corporations, shall apply to mergers between corporations, domestic limited partnerships and business entities as defined by this act. Said domestic limited partnerships and business entities shall be treated as corporations for the purposes of applying the procedures, requirements and effects prescribed in said article 5.

Section 3. The provisions of this act shall be read in pari materia with chapter 9A of Title 10 of the Code of Alabama 1975, relating to limited partnerships.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:30 P.M.

Act No. 91-589

H. 155 — Rep. Johnson

AN ACT

To require that the State Board of Pharmacy establish and periodically update a published list of precursor chemicals which are essential to the manufacture of unlawful controlled substances; to establish an interim list of such chemicals; to enact registration, reporting, and record-keeping requirements for individuals who manufacture, buy, sell, transfer, transport, receive, possess, or otherwise furnish such listed precursor chemicals, under the direction and supervision of the Board of Pharmacy; to make unlawful the possession of listed precursor chemicals with knowledge or intent that the same will be used in the unlawful manufacture of controlled substances; to empower the Board of Pharmacy to adopt reasonable rules and regulations to effect the purposes of the act, and to charge reasonable fees for the registration of listed precursor chemical transactions; and to provide penalties for violation of the act.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. As used in this act and unless otherwise specified, the following terms are defined as follows:

(a) "Board" or "Board of Pharmacy" means the Alabama State Board of Pharmacy.

(b) "Listed Precursor Chemical" means a chemical substance specifically designated as such by the Alabama State Board of Pharmacy, that, in addition to legitimate uses, is used in the unlawful manufacture of a controlled substance or controlled substances. No chemical substance shall be deemed a listed precursor chemical for the purposes of this act unless specifically designated as such by the Board of Pharmacy. No chemical may be designated as a listed precursor chemical if it has been designated as a listed controlled substance pursuant to the Alabama Uniform Controlled Substances Act, Sections 20-2-1 through 20-2-164, Code of Alabama 1975, or if it has been designated as an immediate precursor chemical by the Board of Pharmacy pursuant to the same act.

(c) "Person" means any individual, corporation, partnership, association, or other entity which manufactures, sells, transfers, or possesses a listed precursor chemical.

Section 2. (a) The Board of Pharmacy shall, within one year of the effective date of this act, designate by rule listed precursor chemicals.

(b) The Board of Pharmacy may subsequently by rule add chemicals as listed precursor chemicals following the criteria set forth in Section 1 (b), above, and may also by rule delete any substance previously named as a listed precursor chemical. In no event shall a chemical also be designated as a listed precursor chemical if it has been determined to be a controlled substance or an immediate precursor chemical pursuant to the Alabama Uniform Controlled Substances Act, Sections 20-2-1 through 20-2-164, Code of Alabama 1975, et seq.

(c) If any chemical is designated or deleted as a listed precursor chemical under federal law and notice thereof is given to the Board of Pharmacy, the board shall similarly list or delete the substance under this act after the expiration of 30 days from publication in the federal register of a final rule or order designating or deleting such substance as a listed precursor chemical, unless, within 30 days from publication in the federal register of the final rule or order, the board objects to the designation or deletion. In that case, the board shall publish the reasons for objection in the Alabama Administrative Monthly and shall afford all interested parties an opportunity to submit written comments and to be heard. At the conclusion of the hearing and the comment period, the State Board of Pharmacy shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the designation or deletion by the board, the designation or

deletion is stayed until the board publishes its decision. Notwithstanding the provisions of the Alabama Administrative Procedure Act, Sections 41-22-1 through 41-22-27, Code of Alabama 1975, no further rulemaking or administrative proceedings shall be required of the board with respect to the designation or deletion of substances similarly designated or deleted under federal law.

(d) Until the Board of Pharmacy adopts a rule designating listed precursor chemicals, as required by subsection (a) of this section, the following chemicals or substances are hereby deemed listed precursor chemicals:

- (1) Acetic anhydride;
- (2) Anthranilic acid and its salts;
- (3) Benzyl cyanide;
- (4) Ephedrine, its salts, optical isomers, and salts of optical isomers;
- (5) Ergonovine and its salts;
- (6) Ergotamine and its salts;
- (7) Hydriodic acid;
- (8) Isosafrol;
- (9) Methylamine;
- (10) N-Acetylanthranilic acid and its salts;
- (11) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (12) Phenylacetic acid and its salts;
- (13) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers;
- (14) Piperidine and its salts;
- (15) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers;
- (16) Safrole; and
- (17) 3,4-Methylenedioxyphenyl-2-propanone.

Section 3. (a) A manufacturer, wholesaler, retailer, or other person who sells, transfers, manufactures, purchases for resale, or otherwise furnishes any listed precursor chemical defined in Section 2 of this act must first obtain a license annually from the Board of Pharmacy.

(b) The procedure for obtaining a license to sell, transfer, manufacture, purchase for resale, or otherwise furnish a listed precursor chemical shall be as follows:

- (1) Obtain an application from the Board of Pharmacy;
- (2) Submit the application to the Board of Pharmacy;
- (3) Demonstrate a legitimate reason to sell, transfer, or otherwise furnish listed precursor chemicals.

(c) The content of the application for a license shall include, but not be limited to, the following information:

- (1) Name of business;
- (2) Address of business other than a post office box number;
- (3) Phone number of business;
- (4) Names and addresses of business owners;
- (5) Location of storage facility;
- (6) Identification of listed precursor chemicals to be sold; and
- (7) Criminal history of applicant.

(d) A licensee shall make an accurate and legible record of any transaction of listed precursor chemicals and maintain such record together with the following records for a period of at least two (2) years:

- (1) Inventory on hand;
- (2) Purchase receipts;
- (3) Manufacturing records including the date and quantity of any listed precursor chemicals manufactured, the quantity of listed precursor chemicals used in manufacturing any other substance or product, and the inventory on hand of listed precursor chemicals after the manufacturing of any other substance or product;
- (4) Copies of the Board of Pharmacy licenses or permits;
- (5) Records of substance disposal.

Section 4. (a) Any person having a legitimate need for using a listed precursor chemical defined in Section 2 of this act, shall apply in person to the Board of Pharmacy for a permit to possess such chemical each time said chemical is obtained.

(b) The following must be submitted in person to the Board of Pharmacy to receive a permit for possession of listed precursor chemicals:

(1) A driver's license number or other personal identification certificate number, date of birth, residential or mailing address, other than a post office box number, and a driver's license or personal identification card issued by the Department of Public Safety which contains a photograph of the recipient;

(2) In the event the applicant is a corporation, the information in this section shall be required of the person making application for the permit. In addition, the person making application for the permit on behalf of a corporation shall disclose his relationship to the corporation;

(3) The make, model, model year, state where licensed, and license number of the motor vehicle owned and operated by the recipient;

(4) The serial number of the permit issued in the name of the recipient by the Board of Pharmacy pursuant to Section 4 of this act, which shall be obtained from personal observation of the permit;

(5) A complete description of how the chemical is to be used; and

(6) The location where the chemical is to be stored and used.

(c) The permit shall consist of three parts, including:

(1) The original to be retained by the Board of Pharmacy;

(2) A copy to be retained by the manufacturer, wholesaler, retailer, or other person furnishing listed precursor chemicals; and

(3) A copy to be attached to the container of the listed precursor chemical and to be kept with the chemicals at all times.

Section 5. (a) A license or permit, obtained pursuant to Section 3 or 4 of this act, shall be denied, suspended, or revoked by the Board of Pharmacy upon finding that the license or permit holder has:

(1) Furnished false or fraudulent material information in any application filed under this act;

(2) Been convicted of a crime under any state or federal law relating to any controlled substance;

(3) Had his federal registration suspended or revoked to manufacture, distribute or dispense controlled substances;

(4) Violated the provisions of chapter 23 of Title 34, Code of Alabama, 1975; or

(5) Failed to maintain effective controls against the diversion of said precursors to unauthorized persons or entities.

Section 6. (a) Any person who sells, transfers, purchases for resale, or otherwise furnishes to a person in this state a listed precursor chemical shall submit a report of the transaction on a form obtained from the Board of Pharmacy that includes the information required by Section 4 of this act.

(b) The Board of Pharmacy shall supply, upon the request of any manufacturer, wholesaler, retailer, or other person who sells, transfers, purchases for resale, or otherwise furnishes a listed precursor chemical a form for the submission of:

(1) The report required by subsection (a) of this section;

(2) The name and measured amount of the listed precursor chemical delivered;

(3) Such other information as the board may require pursuant to agency rule of the Board of Pharmacy.

Section 7. (a) Any person, licensed or permitted, who discovers a loss or theft of, or disposes of a chemical listed in Section 2 of this act shall:

(1) Submit a report of the loss, theft, or disposal to the Board of Pharmacy no later than the third business day after the date the manufacturer, wholesaler, retailer, or other person discovers the loss or theft, or after the actual disposal; and

(2) Include the amount of loss, theft, or disposal in the report. Any disposal of listed precursor chemicals must be done in accordance with the rules and regulations of the United States Environmental Protection Administration and shall be performed at the expense of the permit or license holder.

(b) A manufacturer, wholesaler, retailer, or other person who sells, transfers, possesses, uses, or otherwise furnishes any listed precursor chemical shall:

(1) Maintain records as specified in Section 7 of this act, or as prescribed by the rule of the Board of Pharmacy;

(2) Permit law enforcement authorities to conduct on-site audits, inspections or inventories, and inspect all records made in accordance with this act at any reasonable time; and

(3) Cooperate with the audit, inspection or inventory, or copying of any records.

Section 8. The Board of Pharmacy may adopt reasonable rules to effectuate the provisions of this act. The board is further authorized to charge reasonable fees to defray expenses incurred in issuing any licenses or permits or maintaining any records or forms required by this act and in the administration of the provisions of

this act. Any fees to defray expenses as set forth above or in administering the provisions of this act shall be retained by the Board of Pharmacy.

Section 9. (a) The provisions of this act shall not apply to the sale or transfer of products which include a listed precursor chemical if the product may be sold lawfully with a prescription or over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.), or under a rule adopted pursuant to that act.

(b) Notwithstanding any other provision of this act, no person shall be required to obtain a listed precursor license or permit for the sale, receipt, transfer, manufacture, or possession of a listed precursor chemical when:

(1) Such person is a duly licensed physician, dentist, veterinarian, podiatrist, or pharmacist, when the sale, receipt, transfer, manufacture, or possession of such listed precursor chemical is a transaction otherwise lawfully authorized;

(2) A domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;

(3) A delivery of a listed precursor chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman.

Section 10. (a) All listed precursor chemicals as defined in Section 2 of this act, which have been, or which are intended to be sold, transferred, manufactured, purchased for resale, possessed or otherwise transferred in violation of a provision of this act shall be subject to forfeiture to the state and no property right shall exist in them.

Section 11. (a) Any person who manufactures, sells, transfers, receives or possesses a listed precursor chemical violates this act if the person:

(1) Knowingly fails to comply with the reporting requirements of this act;

(2) Knowingly makes a false statement in a report or record required by this act or the rules adopted thereunder;

(3) Is required by this act to have a listed precursor chemical license or permit, and is a person as defined by this act, and knowingly or deliberately fails to obtain such a license or permit. An offense under this subsection shall constitute a Class C felony.

(b) A person who possesses, sells, transfers, or otherwise furnishes a listed precursor chemical commits an offense if the person possesses, sells, transfers, or furnishes the substance with the knowledge or intent that the substance will be used in the unlawful manufacture of a controlled substance. An offense under this subsection shall constitute a Class B felony.

Section 12. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the remaining part of the act.

Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:31 P.M.

Act No. 91-590

H. 314 — Rep. Lindsey

AN ACT

To amend Section 11-45-2, Code of Alabama 1975, so as to provide that in all towns and in cities of less than 12,000 population, no ordinance or resolution, intended to be of permanent operation shall be valid unless, on its final passage, a majority of the members elected to the council, including the mayor, shall vote in its favor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-45-2, Code of Alabama 1975, is hereby amended to read as follows:

“§11-45-2.

“(a) The style of an ordinance of a city or town shall be, ‘Be it ordained by the city (or town) council of _____ as follows:’ inserting the name of the city or town as the case may be.

· “(b) No ordinance or resolution intended to be of permanent operation shall be adopted by the council at the same meeting at which it is introduced, unless unanimous consent of those present is given for the immediate consideration of such ordinance or resolution, such consent to be shown by a vote taken by yeas and nays, and the names of the members voting shall be entered upon the minutes, and no ordinance or resolution intended to be of permanent operation shall become a law unless on its final passage a

majority of the members elected to said council in cities of over 12,000 inhabitants shall vote in its favor. In all towns and in cities of less than 12,000 population an affirmative vote of a majority of the whole number of members of the council to which the corporation is entitled, including the mayor, shall be required to enact any ordinance or resolution intended to be of permanent operation.

“(c) The council shall award no contract on bids except by resolution.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:32 P.M.

Act No. 91-591

H. 505 — Rep. Haynes

AN ACT

To amend Section 9-11-24-4, Code of Alabama 1975, relating to the taking of certain protected birds or animals by bait, so as to provide for an exception for certain hunting of migratory birds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-11-244, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

“Section 9-11-244.

“No person at any time shall take, catch, kill or attempt to take, catch or kill any bird or animal protected by law or regulation of the state of Alabama by means, aid or use, directly or indirectly, of any bait such as shelled, shucked or unshucked corn or of wheat or other grain, salt or any other feed whatsoever that has been so deposited, placed, distributed or scattered as to constitute for such birds or animals a lure, attraction or enticement to, on or over the area where such hunter or hunters are attempting to kill or take them; provided, that such birds or animals may be taken under properly shocked corn and standing crops of corn, wheat or other grain or feed and grains scattered solely as a result of normal agricultural harvesting and provided further, migratory birds may be hunted under the most recent provisions established by the U.S. Fish and Wildlife Service or regulations promulgated by the Commissioner of the Department of Conservation and Natural Resources within the limits of the federal regulations.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:33 P.M.

Act No. 91-592

H. 440 — Rep. Harper

AN ACT

To appropriate the sum of \$500,000 from the State General Fund to the State Highway Department for the operations and maintenance of the Gulf Breeze Amtrak Passenger Train Service for the fiscal year ending September 30, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the State Highway Department for the operations and maintenance of the Gulf Breeze Amtrak Passenger Train Service from the State General Fund the amount of five hundred thousand dollars (\$500,000) for the fiscal year ending September 30, 1991.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:34 P.M.

Act No. 91-593

H. 787 — Rep. Ford

AN ACT

To amend Section 7-9-403, Code of Alabama 1975, which relates to the filing of financing statements, so as to provide further for such filing.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 7-9-403, Code of Alabama 1975, is hereby amended to read as follows:

“§7-9-403.

“(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

“(2) Except as provided in subsection (6), a filed financing statement is effective for a period of five years from the date of filing, or, where both (i) the collateral described consists only of consumer goods and (ii) the secured obligation is originally \$2000 or less, then until the thirtieth day following any maturity date if specified in the financing statement. The effectiveness of a filed financing statement lapses on the expiration of the effective period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the effective period, whichever occurs later; but when the effective period expires before the expiration of the 60-day period, the security interest remains continuously perfected beyond the 60 day period only if a continuation statement is filed before expiration of the effective period or a new financing statement is filed between the time of expiration of the effective period and expiration of the 60-day period. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

“(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the effective period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective, and, may where both (i) the collateral described consists only of consumer goods and (ii) the secured obligation is originally \$2000 or less, specify the maturity date. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 7-9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective or until the thirtieth day following any maturity date specified in the continuation statement, whichever is earlier, whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original

statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it. Microfilm or other photographic records may be removed and destroyed after five years after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

“(4) The filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and such trade names as are shown (subsection (7) of section 7-9-402) and shall note in the index the file number and the address of the debtor given in the statement.

“(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement which includes filing and indexing a termination statement and for stamping a copy furnished by the secured party to show the date and place of filing thereof, or for a continuation statement shall be \$10.00 for the first page and \$1.00 per page for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 for each statement if not in the standard form, plus in each case, if the financing statement is subject to subsection (5) of section 7-9-402, \$1.00. The uniform fee for each name more than one required to be indexed shall be \$1.00. The secured party may at his option show a trade name for any person and an extra uniform indexing fee of \$1.00 shall be paid with respect thereto.

“(6) If the debtor is a utility (subsection (5) of section 7-9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 7-9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate. A financing statement covering a mobile home, other than a mobile home constituting inventory, remains effective, if it so states, until a termination statement is filed.

“(7) When a financing statement covers timber to be cut or crops growing or to be grown, or is filed as a fixture filing, the filing officer shall, in addition to indexing it in the ordinary manner prescribed in subsection (4) of this section, index it in the real

estate mortgage records under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, then also under the name of the secured party as if he were the mortgagee thereunder, and where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:35 P.M.

Act No. 91-594

H. 88 — Reps. Knight, Fuller

AN ACT

To create the Catastrophic Trust Fund for Special Education to be administered by the State Department of Education for the purpose of assisting local education agencies in providing special education and related services to children with disabilities in catastrophic cases, and to further provide that unencumbered portions of the funds remain in the Catastrophic Trust Fund for Special Education for future use in such cases.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established the Catastrophic Trust Fund for Special Education to be titled the Catastrophic Trust Fund for Special Education Act, to be administered by the State Department of Education for the purpose of assisting local education agencies providing special education and related services for children with disabilities in catastrophic cases.

Section 2. For the purposes of this Act, the following words, terms and phrases shall have the following interpretations:

(1) Special educational services — Services relating to instruction of exceptional children with disabilities.

(2) Exceptional Children — Those children and youth with disabilities determined eligible for special education and related services under existing federal and state laws, rules, regulations and policies governing special education.

(3) Catastrophic — Those cases where special education and related services which are required for a particular child are unduly expensive, extraordinary and/or beyond the routine and reasonable special education and related services provided by the local education agency.

(4) Local education agency — A county or city school district in the State of Alabama.

Section 3. All funds appropriated as a result of this Act and funds obtained through donations, bequests, other forms of financial assistance, and accrued interest in the investment of all funds that are to be used to fund services for exceptional children with disabilities. All unencumbered funds remaining in the Catastrophic Trust Fund for Special Education at the end of each fiscal year shall carry-over to the next succeeding fiscal year for use in the Catastrophic Trust Fund for Special Education.

Section 4. The State Board of Education shall promulgate rules and regulations governing the total operation of the Catastrophic Trust Fund for Special Education and shall request funding for the Catastrophic Trust Fund for Special Education.

Section 5. The State Superintendent of Education shall provide an annual report on the status of the Catastrophic Trust Fund for Special Education to the State Board of Education, the Governor, the Lt. Governor, the Speaker of the House, and the Chairman of the Senate and House Education Committee. The report shall be submitted no later than the tenth legislative day of each regular session of the Alabama Legislature.

Section 6. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 8. This Act shall become effective upon passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 29, 1991

Time: 7:36 P.M.

AN ACT

Requiring any insurance company, health maintenance organization, employer or other organization that provides a pharmaceutical program to their employers or members, to obtain written proof that the provider pharmacies are registered with the Alabama state board of pharmacy and prescribing penalties for violation.

Be It Enacted by the Legislature of Alabama:

Section 1. No insurance company, health maintenance organization (HMO), employer or organization offering a pharmaceutical prescription program to their employees or members in Alabama, shall enter into an agreement for services until they have obtained written verification that the provider pharmacies are registered with the Alabama state board of pharmacy. Such verification must be filed with the Alabama department of insurance within ten (10) days of initiating such agreement. Said department shall provide a copy of the verification to the Alabama state board of pharmacy. Failure to comply with such verification requirement shall result in a fine to the sponsor of such prescription program, of one hundred dollars (\$100.00) per day, from the date that such agreement was signed until such verification requirement is satisfied.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:37 P.M.

Act No. 91-596

H. 497 — Rep. Johnson

AN ACT

To authorize the Alabama Medicaid Agency to make financing available for addressing liability insurance costs for family practitioners, pediatricians and obstetricians who provide obstetrical services in rural or underserved areas; and authorize the Alabama Medicaid Agency to annually adjust such financing to allow for annual premium increases; and for other purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature recognizes the shortage of and the decline in obstetrical care in the rural areas of the state and the

hardship imposed on those who are required to travel many miles to obtain the necessary prenatal care and ultimately delivery at term. The Legislature further recognizes the high infant mortality rates that are attributed in part to inadequate care during pregnancy, delivery, and necessary care after delivery. The Legislature further recognizes that the reduction in available care and services is attributed in part to high liability insurance premiums. In recognizing the ability of the Alabama Medicaid Agency to maximize state revenues, it is the intent of the Legislature that the Alabama Medicaid Agency provide increased financing for family practitioners, pediatricians and obstetricians to increase availability of obstetrical services and to address the difference in existing insurance premiums and the amount required for obstetrical practice.

Section 2. This financing shall be available to physicians in family practice, pediatrics and obstetrics who provide obstetrical services in rural and underserved areas.

Section 3. The Alabama Medicaid Agency is hereby authorized to develop and administer the financing program and establish the appropriate rules necessary to promote new obstetrical services and set additional criteria necessary to alleviate the problems in the rural areas to reduce the high infant mortality rates.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:38 P.M.

Act No. 91-597

H. 531 — Reps. Thomas, Buskey (JL),
Warren, Bryant, Black (L),
Zoghby

AN ACT

To authorize the Secretary of State to employ an additional employee.

Be It Enacted by the Legislature of Alabama:

Section 1. The Secretary of State is hereby authorized to hire, without regard to the state merit system law, one additional employee who shall serve at the pleasure of the Secretary of State. The position shall be an executive assistant position with duties assigned by the Secretary of State with a salary range of \$29,068.00 to \$44,070.00. For purposes of pay and employment benefits, rights and privileges, the said additional employee shall be treated as if he or she is an employee of the state.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:39 P.M.

Act No. 91-598

H. 128 — Rep. Payne

AN ACT

To require persons engaged in the business of purchasing and receiving or collecting waste grease and animal by-products for rendering or recycling from businesses located in various cities of the state to pay a license tax in each such city; and to provide the rate of such license tax.

Be It Enacted by the Legislature of Alabama:

Section 1. Each person engaged in the business of purchasing and receiving or collecting waste grease and animal by-products for rendering or recycling, from businesses, schools and institutions located in various cities of the state, shall pay the following annual license tax in cities of:

over 100,000 population	\$50.00
25,000 to 100,000 population	25.00
12,000 to 25,000 population	20.00
6,000 to 12,000 population	15.00
2,000 to 6,000 population	10.00
0 to 2,000 population	5.00

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:40 P.M.

Act No. 91-599

H. 357 — Reps. Carothers, Mathis, Beasley
AN ACT

To amend Section 11-88-5 of the Code of Alabama 1975, as amended, relating to the authorization and procedure for amendment of the certificate of incorporation of water, sewer and fire protection authorities with a service area that lies solely within one determining county so as to permit changes in the number of directors of such authorities to any odd number thereof that the board shall deem appropriate, and to provide that the total number of directors of any such authority shall be not less than three or more than five; to validate the membership of the boards of directors of all such authorities as are presently in existence; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Amendment of Section 11-88-5, Code of Alabama 1975, as amended. Section 11-88-5, Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§11-88-5. Authorization and procedure for amendment of certificate of incorporation.

(a) The certificate of incorporation of any authority incorporated under the provisions of this article may at any time and from time to time be amended in the manner provided in this section.

(b) (1) The board of directors of the authority shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include;

a. A change in the name of the authority;

b. The addition to the service area of the authority of new territory lying within the determining county;

c. Provisions for the operation of a system or facility the operation of which is not then provided for in the certificate of incorporation of the authority and which the authority is authorized by this article to operate;

d. Any matters which might have been included in the original certificate of incorporation;

e. Provisions for the addition to the service area of the authority of new territory lying outside the determining county, together with the related provisions referred to in paragraphs a, b, c and d of subdivision (2) of this subsection; and

f. With respect to an authority with a service area that lies solely within one determining county, provisions for a change in the number of directors to any odd number thereof that the board deems appropriate; provided, however, in no case shall the total number of directors be less than three or more than five which provision may also provide for staggering the terms of office of any new directors in the manner contemplated by section 11-88-6.

(2) If any proposed amendment would add to the service area of the authority new territory any part of which lies within any county other than the determining county, such proposed amendment shall include, in addition to a concise legal description of the proposed new territory and any other matters permitted by the foregoing provisions of subdivision (1) of this subsection:

a. Provision for election of at least one director by the governing body of each county in which any part of the proposed new territory lies;

b. Provision for any change in the total number of directors that the board deems appropriate; provided, however, that in no case shall such total number of directors be less than three;

c. Provision for staggering the terms of office of the directors in the manner contemplated by section 11-88-6; and

d. Any provision that the board deems appropriate for allocation of the assets of the authority, upon dissolution, among the counties in which the service area lies.

(3) If the proposed amendment makes provision for the operation of a system or facility not then provided for in the certificate of incorporation of the authority, such proposed amendment shall include, in addition to a concise legal description of the area or areas in which the authority proposes to render service from such system or facility (which such area or areas shall lie wholly within the boundaries of the determining county and may lie either within or without or partly within and partly without the boundaries of any municipality in the determining county), a provision for an appropriate change in the name of the authority.

(c) After the adoption by the board of a resolution proposing an amendment to the certificate of incorporation of the authority, the board shall file a written application with the governing body of each county in which any part of the authority's then existing service area lies and with the governing body of each county in which any part of the proposed new territory lies. Such application shall:

(1) State, in the event that it is proposed to make provision for the operation of a system or facility not then provided for in the certificate of incorporation of the authority, that the authority proposes to render service from such a system or facility (which shall be named), contain a concise legal description of the area or areas in which the authority proposes to render the service provided for by such system or facility and state that there is no public water system, public sewer system or public fire protection facility, as the case may be, adequate to serve any area in which it is proposed that the authority will render such service;

(2) State, in the event that it is proposed to add any new territory to the service area of the authority, that there is no public water system adequate to serve any new territory in which it is proposed that the authority will render water service, that there is no public sewer system adequate to serve any new territory in which it is proposed that the authority will render sewer service and that there is no public fire protection facility adequate to serve any new territory in which it is proposed that the authority will render fire protection service; provided, that in lieu of the statement required by the foregoing provisions of this subdivision, the said application may state that the board of directors or similar managing body of the owner of the legal or equitable title to an existing public water system, public sewer system or public fire protection facility, as the case may be, has adopted a resolution declaring its intention to convey to the authority its interest in such existing system or facility, or both, or a leasehold estate therein;

(3) State that the said amendment will promote the public health, convenience and welfare; and

(4) Request each governing body with which the application is filed to adopt a resolution declaring that it has reviewed the contents of the application and has found and determined as a matter of fact that the statements contained in the application are true.

Every such application shall be accompanied by a certified copy of the said resolution adopted by the board proposing the said amendment to the certificate of incorporation, together with such documents in support of the application as the board may consider appropriate.

(d) As promptly as may be practicable after the filing of the said application with any governing body pursuant to the foregoing provisions of subsection (c) of this section, that governing body shall review the said application and shall find and determine whether the statements in the said application are true. In finding and determining whether said amendment would promote the

general health, convenience and welfare, the said governing body may consider, in conjunction with any other factors it may deem relevant, the desirability of alternative means of furnishing any proposed new territory with water service, sewer service and fire protection service or any thereof. If the said governing body finds and determines that the statements in the said application are true, it shall adopt a resolution declaring that it has reviewed the said application and has found and determined as a matter of fact that the statements in the said application are true. If the said governing body finds and determines that the statements in the said application are not true, it shall deny the application. In the event that any such application shows that the authority proposes to make provision for the operation of a system or facility not then provided for in its certificate of incorporation, any governing body with whom such application is filed may, without any investigation or further consideration, assume that any statement therein that the authority proposes to render service from such a new system or facility is true and may, without any investigation or further consideration, so find and determine in such resolution.

(e) Within 40 days following the adoption by the governing body with which the said application shall have been filed of a resolution declaring the statements in the said application to be true (or, in the event said application was filed with the governing body of more than one county, within 40 days following the adoption of such a resolution by that governing body that was the last to adopt such a resolution, but if and only if the governing body of each other county with whom such application was filed has theretofore adopted such a resolution), the chairman of the board or other chief executive officer of the authority and the secretary of the authority shall sign and file for record in the office of the judge of probate of the determining county a certificate in the name of and in behalf of the authority, under its seal, reciting the adoption of said respective resolution by the board and by each of the said governing bodies and setting forth the said proposed amendment. If the proposed amendment provides for a change in the name of the authority, there shall be filed, together with the certificate required by the immediately preceding sentence, a certificate by the secretary of state showing that the proposed new name of the authority is not identical to that of any other corporation then in existence and organized under the laws of this state or so nearly similar to that of any other such corporation as to lead to confusion and uncertainty.

(f) The judge of probate shall promptly examine each such certificate and shall determine whether it is complete and regular on its face and whether the proposed amendment complies with the

provisions of this article. If the judge of probate shall find that each such certificate is complete and regular on its face and that the proposed amendment complies with the provisions of this article, he shall enter and sign an order setting forth his finding and requiring each such certificate to be recorded, together with his order. Upon the filing for record of the said order and each such certificate, the said amendment to the certificate of incorporation shall become effective.

(g) If the proposed amendment effects a change in the name of the authority, the judge of probate shall promptly send a notice to the secretary of state, advising him of such change."

Section 3. Ratification of Amendment. Any action heretofore taken and approved by a majority vote of the board of directors of any water, sewer or fire protection authority, and found and determined to be true by the governing body of each county in which any part of the said authority's then existing service area lies, providing for an amendment to the authority's certificate of incorporation increasing the number of members of said authority's board of directors, is hereby authorized, ratified and confirmed regardless of any defects, mistakes, errors or ambiguities in the authorization thereof or in the provisions of law respecting amendments to certificates of incorporation of water, sewer and fire protection authorities.

Section 4. Effective Date Provision. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:41 P.M.

Act No. 91-600

H. 437

Reps. Carothers, Layson,
Beasley, Haynes,
Newman, Ford, Hill,
Penry, Johnson, Turner,
Millican, Mikell,
Newton (C), Mathis,
Laird, Dolbare,
Willis, Crow, Hogan,
Blakeney, Kvalheim,

Gaston, McMillan,
 Powell, Zoghby,
 Rockhold, Gullatt,
 Cullins, Burke,
 Bowling, Carns,
 Hawkins, Sanderford,
 Haney, Smith (R),
 Hamilton, Richardson,
 Lindsey, McDaniel,
 Gaines, Morton,
 Sanderson, Knight,
 Rogers (F), Parker (T),
 Parker (P), Smith (C),
 Hall, Butler, Campbell,
 Starkey, Harvey,
 Turnham, Flowers,
 Cosby, Venable,
 Williams, Holladay,
 Clark (J), Biddle

AN ACT

To require all persons 16 years of age or older to present certification of completion of an approved hunter education course prior to obtaining a hunting license and provides penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) It shall be unlawful for any person born on or after August 1, 1977, and of 16 years of age or older, or his agent, to procure any annual or trip hunting license provided for in this act unless said person has been issued and exhibits to the issuing agent at the time of purchasing any annual or trip hunting license, a certification of satisfactory completion by said person of a hunter education course approved by the Department of Conservation and Natural Resources. The person shall only be required to exhibit said certification at the time of purchase of his initial license. The exhibition of said certification shall not be required at the time of purchase of subsequent licenses if the person exhibits to the issuing agent at the time of purchase a license which was issued by this state to him in a previous year.

(b) It shall be unlawful for any person authorized to issue hunting licenses in this state to issue any annual or trip hunting license provided for in this act to any person born on or after August 1, 1977, or his agent, unless that license agent shall have been provided with a certification of satisfactory completion by said person of a hunter education course approved by the Department of

Conservation and Natural Resources or a license issued by the state to said person in a previous year.

(c) It shall be unlawful for any person born on or after August 1, 1977, of 16 years of age or older to hunt in the State of Alabama pursuant to any Alabama lifetime hunting or Alabama lifetime hunting and fishing license, without said person first obtaining a certification of satisfactory completion by said person of a hunter education course approved by the Department of Conservation and Natural Resources.

(d) It shall be unlawful for any person or his agent to wrongfully or fraudulently obtain said certification.

(e) The commissioner of the Department of Conservation and Natural Resources is hereby authorized to provide by regulation the procedure whereby the department may revoke or cancel any hunting license and/or hunter education certification upon determination that the holder thereof was not entitled to issuance or obtained said license or certification by any fraudulent means. Upon revocation or cancellation, the holder thereof shall surrender the license and/or certification to the Department of Conservation and Natural Resources.

(f) The Department of Conservation and Natural Resources, Division of Game and Fish, shall prescribe a course of instruction in competency and safety in hunting and in the handling of weapons. The Game and Fish Division shall also prescribe procedures whereby competent residents of this state shall be certified as hunter education instructors. The Division of Game and Fish shall also have the authority to approve hunter education courses from other jurisdictions.

(g) Any person violating any provision of this section shall be guilty of a Class B misdemeanor.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective August 1, 1993, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 29, 1991

Time: 7:42 P.M.

Act No. 91-601

H. 1033 — Reps. Knight, Smith (C)

AN ACT

Relating to Bibb County; providing for the use of electronic voting systems in elections; providing the requirements for these systems; providing those procedures to be used in connection with elections in which these systems are used, including additional procedures for dividing precincts and designating voting places therein; providing election officers for such polling places and prescribing duties and compensation of such election officials.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act:

(1) "Automatic Tabulating Equipment" shall mean apparatus which automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(2) "Paper Ballot" shall mean a printed paper ballot which conforms in layout and format to the electronic voting system in use.

(3) "Ballot Card" shall mean a tabulating card on which votes may be recorded.

(4) "Ballot Label" shall mean the cards, papers, booklet, pages or other material which contain the names of offices and candidates and statements of measures to be voted on and which are used in conjunction with ballot cards.

(5) "Ballot" shall mean ballot cards or paper ballots.

(6) "Counting Center" shall mean one or more locations selected and designated by the county commission or the municipal governing body, as the case may be, for the automatic counting of ballots in the election.

(7) "Electronic Voting System" shall mean a system in which votes cast by paper ballots or ballot cards, may be tabulated by automatic tabulating equipment.

(8) "Voting Device" shall mean an apparatus in which paper ballots or ballot cards are used in connection with either a punch device for the piercing of ballots by the voter, or a device for marking ballots with ink or other substance, or any other method for recording votes on ballots in such way that the ballot may be tabulated by means of automatic tabulating equipment.

Section 2. (1) In Bibb County, the county commission, or the governing body of any city or town in the county may adopt; experiment with; acquire by purchase, lease, or otherwise, or abandon any electronic voting system authorized by this act for use in all elections in the county or city or only for use thereof in

certain elections. Further, may use such system in combination with paper ballots; and may use such system in all or a part of the voting districts within its boundaries. The local authorities, on the adoption and acquisition of an electronic voting system, shall provide for payment therefor in such manner as they deem for the best interest of the locality. Provided, however, the county or city shall not be required to furnish electronic voting systems in voting precincts or districts that contain less than 600 voters.

(2) Notwithstanding any other provisions of this act or of any other law, the ballots to be counted by means of electronic or electro-mechanical devices shall be of such size, layout and texture, and shall be printed in any type of ink or combination of inks that will be suitable for use in the automatic counting devices.

Section 3. No electronic voting system shall be used in any election unless it satisfies the requirements of Section 17-9-7, Code of Alabama 1975, and

(1) Permits each voter, at other than primary elections, to vote for the nominees of one or more political parties and for independent candidates, and

(2) Permits each voter to vote for candidates in the primary of the political party of his choice, and

(3) Prevents a voter from voting for the same person more than once for the same office, and

(4) Is suitably designed for its purpose and in such a manner that it may be used safely, efficiently and accurately in the conduct of elections and the counting of ballots, and

(5) Accurately and correctly records and counts every vote cast when properly operated.

Section 4. A. If automatic tabulating equipment which requires the use of ballot cards is used:

(1) Ballot labels used in conjunction with ballot cards shall, as far as practicable, be in the same order or arrangement as provided for ballots for elections conducted under the general law, except that the names of all candidates for each office shall be arranged in alphabetical order according to their surnames or last names, and except that such information may be printed in vertical columns or on a number of separate pages which are placed on the voting device.

Following the listing of particular candidates, the pages placed on the voting device shall be of sufficient number to include the

names of candidates for any non-partisan offices and any measures on which a voter may be qualified to vote.

In a primary election the pages placed on the voting device may be arranged with the entire ballot label consisting of several groups of pages, so that a separate group can be used to list the names of candidates seeking nomination of each qualified political party, with additional groups or pages used to list candidates for non-partisan offices or measures. Groups of pages shall be identified by color or other suitable means, and voters shall be instructed to vote only for candidates of the party of their choice and, thereafter, to vote for non-partisan candidates or measures.

(2) Ballot labels shall be printed in plain clear type in black ink, of such size and arrangement as to fit the construction of the voting device. Said labels shall be printed on clear white material or on material of different colors to identify different ballots or parts of a ballot. In primary elections multi-colored ballot labels may be used to identify each political party.

(3) On all ballot labels the titles of offices and the names of candidates shall in all election primaries be arranged in vertical columns or in a series of separate pages. The office titles and the name, or an abbreviation of the name of the political party, shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office, the party and the number to be elected. All candidates for one office shall, insofar as feasible, be grouped on one page. In case there are more candidates for an office than can be printed in one column or on one ballot page, the ballot label shall be clearly marked to show that the list of candidates is continued on the following column or page. In partisan elections the party designation of each candidate shall be printed to the right or below the candidate's name. Arrows may be used to indicate the place to vote for each candidate and on each measure.

(4) In partisan elections the ballot labels shall include a voting square or position whereby the voter may by one punch or one X record a straight party ticket vote for all the candidates of one party or may vote a split ticket for the candidates of his choice. In such partisan elections the party designation and party emblem of each party shall be printed on the ballot labels immediately above the square or position which permits the straight ticket voting. The name or abbreviation of the name of the party shall appear after the name of each individual candidate seeking nomination by such party or seeking election after nomination as such party's candidate.

B. If automatic tabulating equipment which requires the use of paper ballots is used:

(1) Such ballots shall conform to the requirements of Section 17-8-1 et seq., Code of Alabama 1975.

C. If either of the above said automatic tabulating equipment is used:

(1) Paper ballots or ballot cards shall be of the size, design and stock suitable for processing by automatic data processing machines. Each paper ballot or ballot card shall have an attached, serially numbered, stub or perforated stub, which shall be removed by an election officer before it is deposited in the ballot box, or a place where a number can be recorded and obscured. A record of the number of each ballot issued shall be kept by the election official and such record shall record the name of the recipient of such ballot. The name of the county or other local governmental unit, the district number, the designation and date of the election, and a facsimile of the signature of the judge or appropriate municipal officer who has caused the ballot to be printed shall be printed on the paper ballot or ballot card stub. Each paper ballot or ballot card shall contain the same serial number as the stub.

(2) Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided and posted in each polling place on election day as required by law. Sample ballots may be printed on a single page or on a number of pages stapled together.

(3) In elections in which voters are authorized to vote for persons whose names do not appear on the ballot, a place shall be placed on the ballot or a separate write-in ballot shall be provided to permit voters to write in the title of the office and the name of the person or persons for whom he wishes to vote.

Section 5. (1) Prior to any election at which electronic voting devices are used, the probate judge or appropriate municipal officer shall have prepared the voting devices, voting booth, ballot boxes, ballot labels, ballot cards or paper ballots, "write-in" ballots and such other records and supplies as required.

(2) Unless the voting device enables the voter to mark his choices in secret, the sheriff or appropriate municipal officer shall provide voting booths for each voting box or voting center, which shall be of a size and design so as to enable the voter to mark his ballot in secret. The probate judge or appropriate municipal officer shall determine the number of voting devices and voting booths to be provided.

Section 6. (1) The election official shall arrive at the polling place 30 minutes before the opening of the polls, open the voting devices, and examine them to see that they are in proper working

order. They shall open and check the ballots, supplies, records and forms and they shall also post the sample ballots and instructions to voters.

(2) In the event paper ballots are not used, each voter shall be instructed how to operate the voting device before he enters the voting booth. If paper ballots are used and the voter needs instructions or assistance, he may be provided such assistance or instructions in the manner provided by Alabama law as it applies to use of paper ballots.

(3) Any voter who spoils his paper ballot or ballot card may return it and secure another. The word "spoiled" shall be written across the face of the ballot and it shall be placed in the envelope for spoiled ballots.

(4) After the voter has marked his paper ballot or ballot card, he shall place the paper ballot or ballot card in the box provided or place the ballot inside the envelope provided and return it to an election officer, who shall remove the stub and deposit the envelope with the ballot inside the ballot box. No ballot card from which the stub has been detached shall be accepted by the election officer in charge of the ballot box, but shall be marked "spoiled" and placed with the spoiled ballot cards.

(5) As soon as the polls have been closed and the last qualified voter has voted, all unused ballots shall be placed in a container and sealed for return to the sheriff or appropriate municipal officer. If the ballots are to be tabulated in the polling place, the counting equipment used shall have an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate's position, each question and the public counter are all set to zero, and with an element which generates a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate, and the total number of votes cast for, or against any question appearing on the ballot. If the ballots are to be counted centrally, the ballot box shall be opened, and any ballots containing write-in votes may be separated, counted, and tabulated on a standard form provided for this purpose, or such may be separated, counted and tabulated at the central place of counting and tabulation as the equipment for counting tabulation dictates. If the voter has cast more votes for an office than he is entitled as a result of the write-in vote, such write-in vote shall be counted as being the obvious intent of the voter. Any such ballots shall be fastened to the reporting form for write-in vote tabulation and placed in the ballot container with all other voted ballots for delivery to the

counting center. The voting devices shall be placed in their containers and locked or sealed for returning to the sheriff or appropriate municipal officer, and the sealed container shall be returned to the sheriff by chief inspector.

(6) The election inspector shall prepare a report of the number of voters who have voted, as indicated by the poll list, and shall place the original copy of this report in the ballot container so that no additional ballots may be deposited or removed, and shall deliver such container to the counting center. The duplicate copy of this report shall be returned to the sheriff or appropriate municipal officer with other records. The returning officer and the inspector, who shall be members of different political parties when this is feasible, shall forthwith deliver the ballot container to the counting center or other designated place. The judge of probate or appropriate municipal officer may provide that the ballots shall be picked up at the polling places by two authorized returning officers, who shall be of different political parties, if feasible.

Section 7. (1) Prior to the start of the counting of the ballots, the judge of probate or the appropriate municipal officer shall have the automatic tabulating equipment tested in the presence of authorized watchers for interested persons or designate representatives of political parties, to ensure proper performance and to ascertain that it will accurately count the votes cast for all offices and all measures.

(2) All proceedings at the counting center shall be under the direction of the probate judge or appropriate municipal officer, or persons designated by him, and shall be conducted under observation of authorized watchers for interested persons and the public, but no person except those authorized for the purpose shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be deputized and take an oath that they will faithfully perform their assigned duties. Each political party having election watchers at the polls shall be entitled to have watchers at the counting center in sufficient number, to be determined by the governing body of the county or city, so as to permit accurate observance of the receipt, handling, duplication, and processing of all ballots.

If any ballot is damaged or is defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made and substituted for the damaged ballot. All duplicate ballots shall be clearly labeled "duplicate" and shall bear a serial number which shall be recorded on the damaged or defective ballot. The probate judge or appropriate municipal officer may,

prior to the conduct of the official count, conduct an unofficial count in order to provide early unofficial returns to the public.

(3) The return by the automatic tabulating equipment, to which have been added write-in, challenged and absentee votes, shall, when certified by the board of election supervisors as provided for in Section 17-14-1, Code of Alabama 1975, constitute the official return of each election. The persons engaged in processing and counting ballots may from time to time release unofficial returns. Upon completion of the count the returns shall be open to the public, but such returns shall be deemed unofficial until canvassed and the results declared pursuant to Sections 17-14-1 through 17-14-25, Code of Alabama 1975.

(4) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the judge of probate or appropriate municipal officer may direct that the ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

Section 8. Absentee votes and challenged votes shall be cast on paper ballots or on ballot cards and handled in all ways as prescribed by law relative to challenged votes, the absentee ballot law or any other applicable law.

Section 9. All challenged votes shall be counted and handled in the manner prescribed by law.

Section 10. Upon completion of the count, all ballot cards, absentee ballots, challenged ballots write-in ballots and paper ballots, shall be securely packaged, suitably labeled and sealed, and delivered to the returning officer of the election. The election officials shall likewise package and seal a true copy of the ballot label used in each voting district or at each voting center. Thereafter these packages are to be retained and disposed of in accordance with the provisions of Section 17-13-5, Code of Alabama 1975. The election officials shall likewise package and retain all tabulating cards and other materials used in programming the automatic tabulating equipment. The person programming such equipment may have access to these tabulating cards and other materials; he shall not, however, alter or make changes to these materials, but may make copies of the originals and make changes to the copies. The sheriff shall retain and dispose of these materials in the same manner and at the same time he is directed by said Section 17-13-5, supra, to retain and dispose of paper ballots.

Section 11. Any election held pursuant to this act may be contested in the same manner prescribed by law for contesting other elections, and a recount of votes may be ordered under the same

circumstances and conditions as recounts relative to other elections are ordered. Should a recount of votes be ordered as provided by law, the ballots shall be recounted in the manner directed by the judicial authority.

Section 12. (a) If the governing body of the county, with the approval of the probate judge, or the governing body of a municipality authorizes and provides for the use of the electronic voting system pursuant to this act, then such governing body shall also designate voting beats and voting boxes within such beat in the county. The order so designating voting boxes shall state (1) the location of the voting beat and box and (2) the boundaries of the territory in which electors shall reside to be entitled to vote at said voting beat. A copy of this order shall be posted at the courthouse door of the county or at the post office door of any municipality which provides for the use of such electronic voting systems. The limitations prescribed by law as to the number of electors who may reside in a voting district shall not apply to a territory designated hereunder. Boxes may be established for territory or alphabetically. All of the territory designated for a voting box shall be located in the same beat. The county or municipal governing body may by law abolish a voting beat and discontinue the voting box or boxes therein or may extend or restrict the boundary of such voting territory and retain the voting boxes therein or may subdivide such voting territory and designate additional voting boxes therein.

(b) Except as herein expressly provided, in designating voting beats and the territory for which they were established, the county or municipal governing body shall be subject to all other applicable laws regarding the change or establishment of the district of a precinct, including but not limited to the provisions of Section 17-5-1, et seq., Code of Alabama 1975.

Section 13. (a) The voting list of any territory which is furnished the election officers serving at the voting box or boxes designated for such territory shall contain the names of all qualified electors of the territory on a single roll; however, when the roll contains more than twenty-four hundred names the list of qualified electors shall be divided into alphabetical sections of not more than twenty-four hundred names per section. Except as herein provided, the laws applicable to the preparation, distribution, publication and checking of qualified lists shall apply to the poll list of a territory for which a voting box has been established by the county governing body pursuant to authority hereby conferred.

(b) No elector shall vote at any voting beat and box other than the voting beat and box of the territory of which he is a qualified elector.

Section 14. The county governing body shall determine the number of voting beats and boxes and the location of each box deemed necessary to serve adequately the voters at an election, taking into consideration the nature or character of the election; provided, that during each election there shall be maintained at least one box for each six hundred registered electors, or fraction thereof, residing in the territory designated as a beat. At least thirty days prior to the time when the election officials for an election are required to be appointed, the county governing body shall in writing inform the officers whose duty it is to appoint said election officials of the boxes which will be maintained in the respective beats during the forthcoming election. The officers whose duty it is to appoint election officials shall appoint four of said officials for each of the respective boxes required to conduct elections as shown in the statement of the county governing body.

Section 15. (a) At each box of each beat, the election officials shall consist of an inspector, a chief clerk and two assistant clerks.

(b) If an election official should be absent from the box at the opening of such box, a substitute election official may be appointed by the chief inspector in charge of the voting center.

(c) The election officials provided for herein shall be appointed by the same officers that appoint other election officials. They shall perform all duties imposed on election officials by the general law.

(d) The assistant clerk in charge of the voting device shall require that each voter sign a poll list when the punch card or other ballot is given to him, which shall contain a serial number, the same as on the paper ballot or ballot card given him. A separate poll list of persons casting challenged votes shall be kept by the officials. The poll list shall be signed or the name of the voter recorded as provided in Section 17-7-15, Code of Alabama 1975.

(e) The inspector shall certify on a statement form furnished with the other election supplies the total number of votes cast on all devices at the voting box and the total number of electors' names recorded on the poll lists at such voting box. Election officials provided for by this act shall be compensated for their services in the same manner and at the same rate provided by law for election officials where voting machines are used.

(f) It shall be the duty of all election officials to see that order is maintained in the polling place. The inspector shall see that the reports required by Section 6(6) of this act are filled out for each

voting device as required by law and delivered to the proper officials, that the records of the election relating to each device are enclosed respectively in each ballot box or other receptacle provided therefor, and that the list of qualified voters, challenged ballots, and one copy of each challenged vote and any other records relating to the election in general are enclosed in an appropriate box or other receptacle.

Section 16. (a) If the governing body of the county or municipality authorizes and provides for the use of the electronic voting system hereby authorized, then such governing body may, in its discretion, also provide for holding a school of instruction for those who will actually conduct the election at the polling places. If the governing body of the county or the municipality decides to do so, then not less than five days before an election the authority in charge shall cause to be held a school of instruction for those who will actually conduct the election at the polling places. The sheriff shall notify the election officials of the time and place of the holding of such school and shall also publish notice thereof at least 48 hours before the same is to be held.

(b) No election official shall serve in any election district or at any voting box in which a voting device is used, unless he shall have received such instruction and is fully qualified to perform the duties in connection with the voting device, has received a certificate from the authorized instructor to that effect, and is a qualified voter. This shall not, however, prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials, and in the event that the governing body does not order the holding of such school of instruction, the appointment of election officials without such school shall be valid.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. All laws or parts of laws which conflict with this act are hereby repealed.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 12, 1991

Time: 7:45 P.M.

Act No. 91-602

H. 330 — Rep. Holley

AN ACT

To authorize the establishment of watershed management authorities; to express legislative intent; to define relevant terms; to specify the purposes of said authorities; to define the land which may be included in an authority; to provide for the development of certain management guidelines; to provide the method for creating an authority; to provide for a hearing prior to creation; to create a board of directors to govern the authority and provide for the method of appointing or electing said board and their successors; to provide for the terms of office of board of directors members and the method of filling vacancies; to provide procedures for the operation of the board of directors; to provide for the reimbursement of expenses incurred by board members; to provide for the powers and duties of the board of directors; to authorize the issuance of bonds; to provide for the discontinuance of an authority and the assumption of assets; to provide for annual audits; to provide officers and employees of the authority shall be subject to the state code of ethics; to authorize full-time employees of the authority to join the employees' retirement system and receive health insurance and other benefits; to provide an authority shall be subject to competitive bid laws and to exempt an authority from certain taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Proper management of the watersheds of the state is necessary to insure the health, safety and welfare of our citizens. Improper land use and water use practices upon our watersheds have caused or contributed to and will continue to cause and contribute to critical flooding, erosion and pollution problems. Proper management of watersheds is necessary to provide an adequate supply of water for residential, agricultural and industrial uses, flood prevention and control, soil erosion prevention and control, agricultural and timber land protection, and wildlife habitat protection. The legislative intent of this act is to provide for the establishment of watershed management authorities, and to authorize said entities to protect and manage the watersheds of this state.

Section 2. For the purposes of this act, the following words and phrases shall have the meanings indicated unless the context clearly indicates a different meaning:

(1) **WATERSHED MANAGEMENT AUTHORITY.** A governmental subdivision of this state and a public body, corporate and politic, organized in accordance with the provisions of this act for the purposes, with the powers and subject to the restrictions set forth in this act.

(2) **DIRECTOR.** One of the members of the governing body of a watershed management authority.

(3) **AT LARGE DIRECTOR.** A director of a watershed management authority who may reside within any county that lies within the boundaries of the watershed management authority.

(4) **RESIDENT DIRECTOR.** A director of a watershed management authority who, pursuant to the requirements of this act, must reside in a particular county.

(5) **BOARD OF DIRECTORS.** The governing body of a watershed management authority.

(6) **BOARD OF SUPERVISORS.** The governing body of the soil and water conservation district in which a watershed management authority is situated or, if the watershed management authority is situated in more than one soil and water conservation district, the joint governing bodies of such districts.

(7) **DUE NOTICE.** Notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area or, if no such publication of general circulation is available, by posting notice in at least three public places in each county lying in whole or in part within the designated area. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

(8) **SOIL AND WATER CONSERVATION DISTRICT.** A governmental subdivision of this state and a public body corporate and politic organized in accordance with the provisions of article 2 of Title 9 of the Code of Alabama 1975, for the purposes, with the powers and subject to the restrictions set forth in said article.

(9) **STATE.** The State of Alabama.

Section 3. Watershed management authorities may be formed in any watershed area of the state for the purpose of developing and executing plans and programs relating to any phase of conservation of water, water usage, flood prevention, flood control, water pollution control, wildlife habitat protection, agricultural and timberland protection, erosion prevention and control of erosion, floodwater and sediment damages.

Section 4. Any management guidelines developed by watershed management authorities to protect forested watersheds shall follow the best management practices established by the Alabama forestry commission as they pertain to forested watersheds.

Section 5. The land area embraced in any watershed management authority must encompass at least fifty (50) square miles, must be contiguous and must lie within a defined watershed. The area may include lands within any soil and water conservation district. Such authorities may embrace lands lying in one or more soil and water conservation districts. Two or more watersheds may be included in a watershed management authority. Provided, however, no land may be included in more than one watershed management authority and provided further, that no lands or facilities which are subject to the licensing jurisdiction of the Federal Energy Regulatory Commission or the jurisdiction of the Alabama Public Service Commission to issue certificates of convenience and necessity shall be subject to the exercise of any powers or authorities granted herein.

Section 6. When 25 or more residents, who are 18 years of age or older, within each county located on a defined watershed desire to form a watershed management authority, said residents shall file a petition with the board of supervisors of the soil and water conservation district in which said proposed authority lies. Such petition shall define the boundaries of the proposed watershed management authority, the number of acres of land involved, reasons for requesting creation of such authority, the proposed name for such watershed management authority and other information pertinent to such proposal. The proposed name of a proposed watershed management authority shall not be the same as, or deceptively similar to, the name of any other watershed management authority. The proposed name shall include references to the geographic features of the area encompassing the watershed management authority.

Section 7. If the proposed watershed management authority lies in more than one soil and water conservation district, the petition shall be presented to the board of supervisors of all such soil and water conservation districts, and the supervisors of all such districts shall act as a joint board of supervisors in the formation of the watershed management authority.

Pursuant to the provisions of this act, whenever it is necessary for a joint board of supervisors to convene, said meeting may be called by a majority of the members of the several boards of supervisors comprising the joint board of supervisors.

A majority of the joint board of supervisors shall constitute a quorum. All actions taken by the joint board of supervisors shall require a majority vote of all members comprising the joint board of supervisors who are voting on said action.

Section 8. (a) Within 30 days after said petition has been filed with the board of supervisors, it shall cause due notice to be given of a proposed hearing upon the practicability and feasibility of creating said watershed management authority. All interested parties shall have the right to attend such hearing and be heard. If it shall appear at the hearing that other lands should be included or that lands included in the petition should be excluded, the board of supervisors may permit such inclusion or exclusion, provided the land area involved still meets the requirements of Section 5.

(b) If it appears upon the hearing that it may be desirable to include within the proposed authority territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of a further hearing shall be given throughout the entire area considered for inclusion in the authority and a further hearing shall be held.

(c) If a majority of the board of supervisors after final hearing determines from the facts presented at the hearing and upon the available information that there is need in the interest of the public health, safety and welfare for such an authority to function in the territory considered, it shall make and record the determination and shall define, by description, the boundaries of the authority. Said territory shall constitute a watershed management authority. If a majority of the board of supervisors after final hearing determines need does not exist for the authority, it shall make and record said determination and shall deny the petition.

Section 9. If the board of supervisors determines the authority is needed, it shall determine the number of directors who shall comprise the board of directors of the watershed management authority. The board of directors of the watershed management authority shall include at least one resident from each county located within the boundaries of the authority. The board of supervisors of a soil and water conservation district in which is situated a county or a portion of a county that is in a watershed management authority, shall determine if the member of the original board of directors of the watershed management authority, who, pursuant to this act must reside in said county, shall be appointed or elected. For the purposes of this act said directors shall be referred to as "resident directors." The method of selection chosen shall be proclaimed by resolution. If the original member of the board of directors is to be elected, the director shall be elected as provided in Section 10. If the original director is to be appointed, the board of supervisors referred to in this paragraph, shall appoint the director by majority vote.

If the number of directors comprising the original board of directors exceeds the number of counties within the boundaries of the authority, after a director who is a resident of every county within the boundaries of the authority is either appointed or elected as provided herein, the remaining members of the original board of directors shall be either elected or appointed as determined by the several boards of supervisors who approved the establishment of the watershed management authority acting as a joint board of supervisors. The method of selection chosen shall be proclaimed by resolution. For the purposes of this act, said directors shall be referred to as "at large directors." If said at large original director or directors are to be selected by means of an election, said director or directors shall be elected as provided in Section 10. If said at large original director or directors are to be appointed, the several boards of supervisors shall appoint said director or directors by majority vote.

The several boards of supervisors who approved the establishment of the watershed management authority shall by resolution designate and assign the terms of office of the original appointed and elected members of the board of directors, said terms shall be staggered and the terms shall be no greater than four (4) years nor less than two (2) years. Said appointed and elected members of the board of directors' term of office shall commence on the date the board of supervisors adopts said resolution. Those individuals appointed or those elected pursuant to Section 10, and their successors shall constitute the board of directors of the watershed management authority.

Vacancies on the board of directors occurring before the expiration of a term shall be filled for the remainder of the unexpired term by appointment by the remaining members of the board of directors of the watershed management authority.

An oath as provided in Section 279 of the Constitution of Alabama of 1901, shall be administered to all board members prior to assuming office.

A director shall hold office until his successor is appointed or elected and assumes office.

Section 10. If an original director who is required to reside in a particular county is to be selected by means of an election, the board of supervisors who determined that an election would be the method of selection shall call the election. Said election shall be held, within thirty days after need for a watershed management authority has been determined, as provided in Section 8. Due notice shall be required prior to said election. All residents of the county where the director must reside who also reside within the

boundaries of the authority shall be eligible to vote in said election, and only said residents shall be eligible to vote. Said residents shall be 18 years of age or older.

Each person who is qualified to vote for a resident director who desires to be elected a resident director of the watershed management authority shall file not later than ten days prior to the date set for an election a nominating petition with the board of supervisors who called the election. Said petition shall be signed by 25 or more residents who are eligible to vote in the election, or, if less than 50 residents are involved, a majority of such residents.

Due notice of the election shall state the date of holding the election, the hours of opening and closing the polls, and shall designate one or more places as polling places. The board of supervisors who called the election shall appoint a polling superintendent and other necessary polling officers. Said board of supervisors shall prepare a ballot displaying the names of all eligible candidates and shall instruct the voters how to vote. The ballots shall be counted by the election officers at the close of the polls and a report of the results, along with the ballots shall be delivered to the polling superintendent, who shall certify the results to the board of supervisors who called the election. The position on the original board of directors shall be filled by the candidate who received the most votes.

The board of supervisors who called the election, by resolution, shall officially declare the winning candidate. Said board of supervisors shall certify the results to the several boards of supervisors authorizing the establishment of the authority, the probate judges of the counties within the authority, the state soil and water conservation committee and the secretary of state. The board of supervisors calling the election shall have authority to promulgate all necessary rules and regulations concerning the holding of said election. Costs of the election provided for by this section shall be paid by said board of supervisors. Once established, the board of directors of the watershed management authority may reimburse the board of supervisors for the cost of the election.

If the original at large directors referred to in Section 9 are to be selected by means of an election, the several boards of supervisors who determined that an election would be the method of selection shall call the election. Said election shall be held within thirty days after need for a watershed management authority has been determined as provided in Section 8. Due notice shall be required prior to said election. All residents of the authority who are 18 years of age or older shall be eligible to vote in said election, and only said residents shall be eligible to vote.

Each person who is qualified to vote for an at large director who desires to be elected an original at large director of the watershed management authority shall file not later than ten days prior to the date set for an election a nominating petition with the board of supervisors who called the election. Said petition shall be signed by 25 or more residents within the watershed management authority who are eligible to vote in said election, or, if less than 50 residents are involved, a majority of such residents. If the candidates nominated do not exceed the positions available, said candidates shall be declared elected by the board of supervisors who called the election. If the number of individuals filing nominating petitions is greater than the number of available positions on the board of directors, then the election shall be held.

Due notice of the election shall state the date of holding the election, the hours of opening and closing the polls, and shall designate one or more places within the authority as polling places. The board of supervisors who called the election shall appoint a polling superintendent and other necessary polling officers. Said board of supervisors shall prepare a ballot displaying the names of all eligible candidates and shall instruct the voters regarding the number of candidates for which to vote. Ballots containing votes for less than the specified number of candidates for which an elector may vote shall be counted. Ballots containing votes for more than the specified number of candidates for which an elector may vote shall not be counted. The ballots shall be counted by the election officers at the close of the polls and a report of the results, along with the ballots shall be delivered to the polling superintendent, who shall certify the results to the board of supervisors. The original at large positions on the board of directors shall be filled by those candidates who received the most votes.

The board of supervisors who called the election, by resolution, shall officially declare the original at large members of the board of directors. Said board of supervisors shall certify the results to the probate judges of the counties within the authority, the state soil and water conservation committee and the secretary of state. Said board of supervisors shall have authority to promulgate all necessary rules and regulations concerning the holding of said election. Costs of the original at large director's election shall be paid by the board of supervisors. If a joint board of supervisors is required, the cost of the election shall be paid equally by the several boards of supervisors comprising the joint board of supervisors. Once established, the board of directors of the watershed management authority may reimburse the board of supervisors or the several boards of supervisors comprising the joint board of supervisors for the cost of the election.

Section 11. The successor of a director who must reside in a particular county shall be either elected or appointed. The method of selection shall be determined by the board of supervisors who determined the method of selecting the incumbent director whose term is expiring. The method of selection chosen shall be proclaimed by resolution. The successor of a director who must reside in a particular county, shall be appointed or elected in the same manner as prescribed in Section 9 and Section 10 except as otherwise provided in this section.

The successor of an at large director shall be either elected or appointed. The method of selection shall be determined by the several boards of supervisors who determined the method of selecting the incumbent director whose term is expiring. The method of selection chosen shall be proclaimed the resolution. The successor of an at large director shall be appointed or elected in the same manner as prescribed in Section 9 and Section 10 except as otherwise provided in this section.

All successors shall be elected or appointed for terms of four years.

Elections shall be at least one month prior to the expiration of the term of office of the incumbent director whose term is expiring. The costs of elections shall be paid by the watershed management authority.

Section 12. (a) The board of directors of the watershed management authority shall annually elect from its membership a chairman, secretary and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of his office to be approved by the board of directors, except that no bond shall be required until such time as the authority possesses funds. Such bond shall be executed with at least three solvent personal sureties whose solvency must exceed the amount of the bond or by a surety company authorized to do business in this state and shall be in an amount determined by the board of directors. If the treasurer is required to execute a surety company bond, the premium on the bond shall be paid by the watershed management authority.

(b) A majority of the board of directors shall constitute a quorum, and the concurrence of a majority in any matter within their authority shall be required for its determination.

(c) The chairman of the board of directors shall give notice of all meetings and the agenda for each meeting at least ten days prior to the date of the meeting. In the absence of action by the

board of directors regarding the agenda for a meeting, the chairman shall have the authority to set the agenda.

(d) The board of directors shall have the power to declare a position on the board of directors vacant if a board of directors member holding said position is repeatedly absent from meetings. Provided however, the board shall provide notice to said nonattending member prior to declaring the position vacant. A vacancy created pursuant to this subsection shall be filled in the same manner as other vacancies are filled.

(e) The board of directors shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

Section 13. Members of the board of directors shall receive no salaries but may be reimbursed by the authority for actual and necessary expenditures incurred in the performance of their duties.

Section 14. The board of directors of a watershed management authority shall have power to:

(1) Acquire, by purchase, gift, grant, bequest or devise, or through condemnation proceedings held in the manner provided by chapter 1A of Title 18 of the Code of Alabama 1975, such lands or rights-of-way as are necessary for the exercise of any authorized function of the authority. Prior to commencing condemnation proceedings upon land or rights-of-way in the manner provided by chapter 1A of Title 18 of the Code of Alabama 1975, the board of directors of a watershed management authority shall conduct a public hearing regarding the commencement of said condemnation proceedings. The board of directors, prior to the public hearing shall publish notice of the public hearing at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the county or counties where the land or right-of-way is situated. If no such publication of general circulation is available, notice shall be given by posting the notice in at least three public places in the county. The notice shall specify the land or right-of-way upon which a condemnation proceeding may be commenced and the date, time, location and purpose of the public hearing. All interested parties shall have the right to attend said public hearing and shall be granted an opportunity to address the board of directors regarding the commencement of condemnation proceedings. A vote of two-thirds of all the members of the board of directors of the watershed management authority shall be required to commence condemnation proceedings as provided herein;

(2) Construct, improve, operate and maintain such structures and projects as may be necessary for the exercise of any authorized function of the authority;

(3) Borrow such money as is necessary for the purpose of acquiring rights-of-way and establishing, constructing, reconstructing, repairing, enlarging and maintaining such structures and improvements as are required by the authority in the performance of its functions, and issue, negotiate and sell its bonds as provided in Section 15; provided that all contracts made and all bonds issued by a watershed management authority under the provisions of this act shall be solely and exclusively obligations of the authority and shall not be an obligation or debt of the State of Alabama or any county or municipality therein;

(4) Sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes provided for by this act;

(5) Make and execute contracts and other instruments necessary and convenient to the exercise of its powers;

(6) Sue and be sued in the name of the authority;

(7) Cooperate with or act as agent for the State of Alabama or any of its agencies or the United States or any of its agencies or any county or municipality in connection with the acquisition, construction, operation or administration of any project within the boundaries of the authority;

(8) Accept donations, gifts and contributions in money, services, materials or otherwise from the United States or its agencies or from the State of Alabama or its agencies or from any county or municipality or from any individual and use or expend such moneys, services, materials or other such contributions in carrying out the provisions of this act;

(9) Employ such employees as the board may determine and fix their compensation, qualifications and duties and delegate to the chairman of the board or any member or employee of the board such powers and duties as it may deem proper;

(10) Call upon the attorney general of the state for such legal services as it may require or employ its own counsel and legal staff;

(11) Have a seal, which seal shall be judicially noticed;

(12) Have perpetual succession unless terminated as provided in this act; and

(13) Cooperate with other watershed management authorities in the exercise of any and all powers conferred pursuant to the provisions of this act.

Section 15. Bonds authorized by Section 14 shall not be issued until proposed by order or resolution of the board of directors of the watershed management authority specifying the purpose for which the funds are to be used and the proposed undertaking, the amount of bonds to be issued and the rate of interest they are to bear and are approved by the director of the state department of finance. An authority, with such approval, shall have power and is authorized from time to time to issue its negotiable bonds. Said bonds may be issued in one or more series, may bear such date or dates, mature at such time or times not exceeding 40 years from their respective dates, bear interest at such rate or rates, payable in such manner, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as the authority's resolution or resolutions may provide. Said bonds may be issued for money or property at public or private sale for such price or prices as the board of directors shall determine. Said bonds may be repurchased by the authority out of any funds available for such purpose at a price not more than the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser of said bonds. No bonds or other evidence of indebtedness of an authority shall be issued or sold until consent to the issuance and sale thereof shall have been given by the director of the department of finance. A petition requesting such consent shall be filed by such authority with the director of the department of finance. Such petition shall specify the plan or program of the authority and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise said director of the nature of the purpose, in furtherance of which such issue is proposed, and said petition shall include such other information as may be required by the rules of the department of finance. The director of the department of finance shall grant such consent only after he finds that such issue or sale serves some public need and is in the public interest. It shall be unlawful for the authority to use the proceeds of any such issue or sale contrary to the plan and purposes presented to the director of the department of finance in obtaining his consent thereto. The authority applying for such consent is authorized to pay such

fees as shall be lawfully assessed against it by the department of finance.

Section 16. (a) At any time, a watershed management authority's board of directors may file a petition with the secretary of state, the joint boards of supervisors who authorized the establishment of the authority and the state soil and water conservation committee praying that the existence of the authority be discontinued. The petition shall state the reasons for discontinuance.

(b) The examiners of public accounts shall specify as a part of said petition that all obligations of the authority can be properly satisfied by the use of the existing assets of the authority.

(c) If any watershed management authority petitions for discontinuance, the director of the state department of finance or his designee shall have the same powers regarding the watershed management authority's assets, liabilities and functions as the board of directors of said watershed management authority. The state shall not be required to assume any debts or liabilities of the authority.

(d) All assets, including but not limited to real property, personal property, equipment and supplies, acquired, appropriated to or received, shall be deemed property of the state.

Section 17. Every watershed management authority established under the authority of this act shall be subject to audits by the state examiners of public accounts.

Section 18. Officers and employees of a watershed management authority established pursuant to the provisions of this act shall be subject to the state ethics law. Members of the board of directors of a watershed management authority for the purposes of chapter 25 of Title 36 of the Code of Alabama 1975, shall be considered "public officials." Employees of a watershed management authority for the purposes of chapter 25 of Title 36 of the Code of Alabama 1975, shall be considered "public employees."

Section 19. (a) Any person who is regularly employed by a watershed management authority established pursuant to this act shall be deemed to be an "employee" of the State of Alabama, as defined in Section 36-27-1 of the Code of Alabama 1975. From the date he assumes his duties, any such person shall be deemed to be a "member" of the state employees' retirement system, as defined in Section 36-27-4, Code of Alabama 1975; provided that the required contributions are made to the system.

(b) Any person employed by a watershed management authority shall become a member of the employees' retirement system as

a condition of employment. Deductions for retirement purposes shall be made from the salary of each employee in the manner prescribed by law.

(c) The watershed management authority shall contribute on account of the participation of its employees the employer's contribution rate as established by the actuary for regular employees of the state.

The contribution rate so computed, based upon the payroll of the employees, shall be certified by the board of control of the employees' retirement system to the board of directors of the watershed management authority. The watershed management authority shall pay to the state treasurer the amount certified by the board of control and the state treasurer shall credit such amounts to the appropriate funds of the retirement system.

Section 20. (a) Full-time employees of a watershed management authority shall be included in the definitions of "employee" as provided in Section 36-29-1(1) of the Code of Alabama 1975, and shall be entitled to the same health insurance benefits and required to make the same contributions as other state employees. The watershed management authority is hereby authorized to pay the employer's share for said health insurance to the state employees' insurance board.

(b) Full-time employees of a watershed management authority shall be entitled to all benefits granted state employees.

Section 21. Every watershed management authority established pursuant to the provisions of this act shall be considered a state authority for the purposes of applying the provisions of chapter 16 of Title 41 of the Code of Alabama 1975, regarding competitive bidding on public contracts.

Section 22. The property and interests acquired by any watershed management authority organized under the provisions of this act shall be exempt from all state, county or other taxation.

Section 23. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 24. All laws or parts of laws which conflict with this act are hereby repealed.

Section 25. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-603

H. 992 — Rep. Clay

AN ACT

Relating to Bullock County; authorizing the county commission to levy an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in the county; and providing for the collection and enforcement of the tax, and distribution of the proceeds therefrom.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) The Bullock County commission is hereby authorized to impose upon every person, firm, or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Bullock County a county privilege, license or excise tax in the following amounts:

(1) Five cents (\$0.05) for each package of cigarettes, made of tobacco or any substitute therefor.

(2) Five cents (\$0.05) for each package of cigars or cigarettos, such as Winchester, which are similar to, and which are packaged like, cigarettes.

(3) Three cents (\$0.03) for each cigar, cheroot, or stogie of any description made of tobacco or any substitute therefor which are not similar to, nor packaged like, cigarettes as provided for in subdivision (2) of this section.

(4) Three cents (\$0.03) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(5) Five cents (\$0.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subdivision (3) of this section.

(6) Five cents (\$0.05) for each can, bottle, glass, tumbler package or other container of snuff made of tobacco or any substitute therefor.

(7) Fifteen cents (\$0.15) for each package of tobacco paper, both gummed and ungummed.

(b) Said privilege, license or excise tax shall be in addition to all other federal, state or local taxes heretofore imposed by law. Provided, however, when the license tax hereby required to be paid

shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

Section 2. Upon adoption of a resolution by the Bullock County Commission, every person, firm, corporation, club, or association that sells or stores or receives for the purpose in Bullock County any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, acting merely as agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products.

Section 3. It shall be unlawful for any dealer, storer or distributor engaged in or continuing in Bullock County in the business for which the tax is hereby levied to fail or refuse to add to the price and collect from the purchaser the amount due on account on the tax herein provided or to refund or offer to refund all or part of the amount collected or absorb or advertise directly or indirectly the absorption of the tax or any portion thereof.

Section 4. (a) The proceeds from the tax hereby authorized, less the actual cost of collection not to exceed five per centum (5%) shall be paid by the state department of revenue to the Bullock County commission to be used for the following purposes:

(1) five per centum (5%) of said proceeds shall be distributed to U.S.A. Recreation, Inc.; and

(2) the remaining proceeds shall be distributed equally among each certified fire department in the county. Annually, on October 1, the Alabama Forestry Commission shall submit to the Bullock County Commission a list of each certified fire department.

(b) It is the intent of the legislature that said volunteer fire departments and municipally supported fire departments shall

not be considered as employees, servants or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of said fire departments.

Section 5. The tax hereby authorized shall be paid by affixing stamps as is required for the payment of the tax imposed by section 40-25-1 through section 40-25-28, Code of Alabama 1975. The state department of revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax.

Section 6. The state department of revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purpose of this act. All such rules and regulations duly promulgated shall have force and effect of law.

Section 7. All laws, and rules and regulations of the department of revenue, relating to the manner and time of payment of the tax levied by section 40-25-1 through section 40-25-28, Code of Alabama 1975, as amended, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully set out herein.

Section 8. (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other clauses of the federal or state constitution.

(b) This statute shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco and like tobacco products stored by a wholesaler dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped.

Section 9. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-604

H. 890 — Rep. Clark (W)

AN ACT

To provide for the holding of an election among the qualified voters of Mobile County to determine whether alcoholic beverages may be legally sold and distributed in said county on Sundays after 12:00 o'clock noon by properly licensed retailers serving the general public; to provide conditions under which subsequent elections may be called to present the same question for reconsideration by the voters of Mobile County; to provide the allowable dates on which elections called pursuant to this act may be held, to specify the question to be presented to the voters in such elections and to provide the manner in which such elections shall be conducted and the results canvassed, tabulated, certified and declared; to provide that the properly licensed sale and distribution of alcoholic beverages on Sunday after 12:00 o'clock noon, if approved by a majority of the voters in Mobile County in an election held pursuant to this act, shall be legal in all of Mobile County, including each municipality or part thereof that is located in Mobile County, irrespective of whether a majority of the voters of each such municipality voting in such election voted against the expanded sale and distribution of alcoholic beverages on Sunday; and to provide that, with respect to any municipality having a part thereof located outside of Mobile County, any election conducted pursuant to this act shall involve only those voters of such municipality who are voters of Mobile County and the results of such election shall apply only to those parts of such municipality that are located in Mobile County.

Be It Enacted by the Legislature of Alabama:

Section 1. The Mobile County Commission is hereby mandated to call and provide for holding an election among the voters of Mobile County to determine whether or not alcoholic beverages (as defined in Section 28-3-1 of Code of Alabama 1975) may be legally sold and distributed on Sundays after 12:00 o'clock noon by properly licensed retailers serving the general public. The initial election mandated by this act shall be held at the same time as the first state-wide election scheduled to be held following passage of this act. To the extent technically feasible, the question presented in such election shall be printed on the same ballot used by the voters to vote on candidates and other questions presented in such election, as the case may be. The question to be voted on in the initial election mandated by this act, as well as in any subsequent election held pursuant to the provisions of Section 2 of this act, shall be stated on the ballots in substantially the following form:

“Do you favor authorizing the legal sale and distribution of alcoholic beverages in Mobile County on Sundays after 12:00 o'clock noon by properly licensed retailers serving the general public?”

Yes ____ No ____

Section 2. Regardless of the result of the initial election mandated by Section 1 of this act or the result of any subsequent election held pursuant to the following provisions of this section,

any number of subsequent elections may be called and held to authorize or prohibit the sale and distribution of alcoholic beverages in Mobile County on Sundays after 12:00 o'clock noon as and to the extent permitted by this act. An election on this question may be called by the Mobile County Commission acting on its own volition through the adoption of a resolution receiving the affirmative votes of a majority of the members of such commission. In addition, an election on this question shall be called by the Mobile County Commission if there shall be filed with such commission, at any time after the last election held pursuant to this act, appropriately certified copies of resolutions requesting such an election that have been adopted by the governing bodies (in accordance with usually applicable law and procedure necessary for the adoption of an effective resolution) of one or more municipalities whose aggregate population residing in Mobile County equals or exceeds 100,000 inhabitants according to the most recent federal census for each of such municipalities. The question presented to the voters in any election held pursuant to the provisions of this section shall be in substantially the same form as the question to be stated on the ballots used in the initial election mandated by Section 1 of this act. Any election held pursuant to the provisions of this section shall be held at the next primary or general election which shall be conducted among all the voters of Mobile County; provided, however, that an interval of at least twelve calendar months shall be required between any successive elections held pursuant to this act on the question of permitting the sale and distribution of alcoholic beverages on Sunday; provided further that no subsequent election shall be held pursuant to this act within a period of three years after the next preceding election held pursuant to this act if the prevailing majority in such preceding election, whether voting "Yes" or "No", constituted more than fifty-five percent (55%) of the total number of votes cast in such election.

Section 3. The Mobile County Commission shall cause notice of any election held pursuant to this act to be given to the voters of Mobile County by causing a written notice to be published in a newspaper having general circulation in said county at least 30 days before such election. Such notice shall state that such election is being called pursuant to, and will be conducted in accordance with, the provisions of this act (identifying the same by its act number and the session of the Legislature in which it was adopted) and shall further state the date on which the election will be held and the question that will appear on the ballot. Only qualified voters of Mobile County shall be entitled to vote in any such election. Any election held pursuant to this act shall be conducted by the officers provided by law to conduct county-wide elections in Mobile County, and such elections shall be conducted and the

results thereof canvassed, tabulated, certified and declared in the manner provided by law for county-wide elections in such county. The entire costs of any election held pursuant to this act shall be paid out of the general fund of Mobile County.

Section 4. If a majority of the voters voting in any election held pursuant to this act vote "Yes", then, upon the proper certification and declaration of the results of such election, it shall be legal, on each Sunday during the two-hour period between 12:00 o'clock midnight of the preceding Saturday and 2:00 o'clock, A.M., and for the remainder of Sunday after 12:00 o'clock noon (but not between the hours of 2:00 o'clock, A.M. and 12:00 o'clock noon), in every part of Mobile County, including all municipalities or parts thereof located in such county, for properly licensed persons (as provided in the Alcoholic Beverage Licensing Code, Chapter 3A, Title 28, Code of Alabama, or successor provisions of law) to do the following:

(1) to sell and dispense at retail alcoholic beverages for on-premises consumption in a lounge or bar;

(2) to sell and dispense at retail alcoholic beverages for on-premises consumption in a restaurant, hotel, dinner theater, convention center or other establishment which provides meals to the public as one of its principal or commercial activities or which provides meals, entertainment or meeting support services to the public or selected groups of people in connection with its various activities;

(3) to sell at retail any alcoholic beverages for off-premises consumption;

(4) to sell beer and table wine at retail for on-premises and off-premises consumption;

(5) to sell alcoholic beverages at retail by retail common carrier with a passenger capacity of at least 10 people;

(6) to sell alcoholic beverages at retail under special license issued upon terms and conditions and for the period of time prescribed by the Alcoholic Beverage Control Board;

(7) to sell alcoholic beverages at retail under a special event retail license issued upon terms and conditions prescribed by the Alcoholic Beverage Control Board; and

(8) to consume alcoholic beverages on the premises of any establishment licensed to sell and dispense such alcoholic beverages for on-premises consumption. The enumeration in this act of any activity involving the sale, distribution or consumption of alcoholic beverages on Sunday in Mobile County that becomes legal as a result of this act and any election held pursuant thereto shall not be construed to make unlawful any other activity that is lawful in Mobile County prior to the enactment of this act, including, without limitation

thereto, the sale at retail of alcoholic beverages by properly licensed private clubs, as well as the consumption of such alcoholic beverages on the premises of such clubs, on Sunday without limitation as to time. Upon the authorization of the expanded sale, distribution and consumption of alcoholic beverages in Mobile County on Sunday by an election held pursuant to this act, all persons holding licenses from the Alcoholic Beverage Control Board or successor licensing authority, or thereafter obtaining initial or renewal licenses, for activities involving the sale at retail of alcoholic beverages, whether for on-premises consumption or off-premises consumption or both, shall retain the previously existing right to engage in such activities on Sunday during the two-hour period between midnight of the preceding Saturday and 2:00 o'clock, A.M., and shall have the further right to engage in such activities on Sunday after 12:00 o'clock noon without the filing of any new or supplemental application, the obtaining of any additional governmental permit or approval (whether state, county or municipal), or the payment of any additional license fee, it being the express intention and purpose of this act that the increased conduct of such activities on Sunday as herein provided shall be fully authorized and covered by licenses generally applicable to days of the week other than Sunday.

Section 5. If a majority of the voters voting in any election held pursuant to this act vote "Yes", the activities enumerated in Section 4 hereof which shall become lawful in Mobile County on Sunday after 12:00 o'clock noon shall be lawful in each and every municipality or part thereof located in Mobile County. If a majority of the voters voting in any election held pursuant to this act vote "No", none of the activities enumerated in Section 4 hereof shall be lawful on Sundays after 12:00 o'clock noon or at any other time on Sunday except during the two-hour period between midnight of the preceding Saturday and 2:00 o'clock, A.M., unless such activities at other times on Sunday are authorized by any law other than this act or by a subsequent election held pursuant to this act. If an election is held pursuant to this act in which a majority of the voters voting therein vote "Yes", and if a subsequent election is held pursuant to this act in which a majority of the voters voting therein vote "No", the effect of such subsequent election shall be to make unlawful all activities on Sundays after 12:00 o'clock noon that were made lawful by the prior election, but such subsequent election shall not have the effect of making unlawful any activity that was lawful prior to the election in which a majority of "Yes" votes were cast or that was lawful at the time of such subsequent election due to the provisions of any law other than this act.

Section 6. All laws or parts of laws which conflict or are inconsistent with this act are hereby repealed.

Section 7. The provisions of this act are severable. In the event any section, sentence, clause or portion of this act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this act, which shall continue effective.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-605

S.J.R. 139 — Senator Wilson

SENATE JOINT RESOLUTION

EXPRESSING THE WILL AND INTENT OF THE PEOPLE OF ALABAMA THAT THE PIPELINE PROPOSALS, KNOWN AS DOCKET NOS. CP89-522 AND CP89-523, PENDING BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION, BE APPROVED IN A TIMELY MANNER.

WHEREAS, the State of Alabama is blessed with an abundance of natural resources including natural gas; and

WHEREAS, there exists in this State an industry infrastructure of production, transmission, and distribution companies along with consumers utilizing natural gas for the benefit of the State and the nation; and

WHEREAS, natural gas is an important energy source to attract new and expanded industrial development opportunities into Alabama; and

WHEREAS, natural gas reserves located in Mobile Bay are estimated to hold between four and eight trillion cubic feet of natural gas; and

WHEREAS, several companies are presently exploring for and producing natural gas in state and federal water and require pipelines for transportation of this natural gas to state and national energy markets; and

WHEREAS, Southern Natural Gas Company, Florida Gas Transmission Company, ANR Pipeline Company/Coastal, Tennessee Gas Pipeline Company, Panhandle/Texas Eastern Pipeline Company and Transcontinental Gas Pipeline Company have joined in two applications before the Federal Energy Regulatory Commission (the

Commission) to build and operate an offshore and onshore natural gas pipeline system to provide such a market outlet for this environmentally safe, abundant resource; and

WHEREAS, the applications are in final form and are currently pending approval before the Commission; and

WHEREAS, natural gas is an environmentally safe, clean burning energy source; and

WHEREAS, this domestically produced energy source can reduce the nation's dependance on imported fuels; and

WHEREAS, it is in the best interest of the State of Alabama that natural gas begin transmission through pipelines from these new production wells in an expeditious manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is the will and intention of the people of Alabama that the pipeline proposals known as Docket Nos. CP89-522 and CP89-523 be approved by the Commission in a timely manner.

BE IT FURTHER RESOLVED, That the Clerk of the House expeditiously transmit a copy of this resolution to the Chairman, Commissioner's and the Secretary of the Commission for filing in the above-referenced dockets.

RESOLVED FURTHER, That a copy of this resolution be sent to each member of the Alabama Congressional Delegation in Washington, D. C.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-606

S.J.R. 143 — Senator Horn

SENATE JOINT RESOLUTION

AUTHORIZING THE JOINT FISCAL COMMITTEE TO EMPLOY LEGAL COUNSEL TO DEFEND AGAINST, INTERVENE IN OR INITIATE LEGAL PROCEEDINGS CONCERNING THE LEGISLATIVE BUDGET PROCESS.

WHEREAS, the Alabama Legislature is charged by the Alabama Constitution with the duty of appropriating funds; and

WHEREAS, legal challenges have been filed in recent years against appropriation acts passed by the Legislature and budgeting processes; and

WHEREAS, the Legislature and legislative budget committees have been unrepresented, for the most part, in such proceedings; and

WHEREAS, the budgeting process has been severely hampered by certain court decisions rendered without the benefit of legal briefs to represent the legislative branch; and

WHEREAS, it is imperative that the integrity and plenary power of the Legislature to appropriate funds be aggressively protected against such challenges; now, therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Joint Fiscal Committee, created in Section 29-5-2 of the Code of Alabama, 1975, is hereby authorized to request the Attorney General of the State of Alabama to provide legal assistance or to employ outside legal assistance to defend against, intervene in or initiate legal proceedings on behalf of said Committee in the course of its legislative duty in legal matters that would affect legislative appropriations or the legislative budgeting process or related fiscal matters.

BE IT FURTHER RESOLVED, That expenses incurred by the Joint Fiscal Committee pursuant to this resolution shall be payable from any funds appropriated to the Legislature.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-607

S. 568 — Senator Barron

AN ACT

Providing for the maintenance of a public law library in DeKalb County through imposition of a certain library fee attached to certain court costs; providing for the management of such library; and providing for disposition of funds from such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In order to provide funds for the maintenance of a public law library heretofore established in DeKalb County, a library fee of \$3.50 shall be paid in all causes and cases of whatever nature in the circuit and district courts of said county, to be collected as other court costs are collected and paid at the same time as docket or filing fees are paid. All of the funds collected under the provisions of this section shall be transmitted to the County Law Library Fund of said county by the tenth of each month following their collection. This fee shall be in lieu of any other court cost collected in said county for public law library purposes.

Section 2. The management of the law library is vested in the presiding circuit judge for the county, and such presiding judge or his designee shall administer the law library. Said presiding judge shall draw warrants on the county treasury for expenditures indicating thereon the funds against which the funds are drawn.

Section 3. Funds available to the law library shall be expended, in the discretion of the presiding circuit judge, to provide furniture, fixtures, supplies, and equipment, for the library and for any area used for the storage of library books or other library property, and to keep the same in a good state of maintenance and repair; to establish, enlarge, expand, and improve the library and its facilities and equipment; to provide books, reports and periodicals for the library, including computer disks, electronic subscription services and other technologies available to law libraries; to pay the compensation of a librarian or assistant; and to make such other expenditures as may be appropriate for the operation of the library.

All property purchased with the funds produced by this act shall be the property of DeKalb County, Alabama; provided, however, that said presiding judge may from time to time sell, exchange, or discard such books, reports, and periodicals as may be necessary to keep said library up to date and shall apply the proceeds of any sale for use of said library. The presiding circuit judge may accept on behalf of the law library any gift or loan of any property upon such terms and conditions as may be stipulated by the donor or lender thereof and as may be agreeable to said judge.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

publication; to provide that trials be held to determine whether such sale should be ordered; to provide a method to give notice to delinquent property owners to show cause why a decree of sale should not be rendered against them; to provide a method for the sale of said property and the report of the amount of taxes collected from said sale.

Be It Enacted by the Legislature of Alabama:

Section 1. After the first day of January, the tax collector of Marshall County shall mail a statement to all delinquents addressed to the party in whose name said property was assessed, showing a brief description of the property, and the amount of taxes, fees and cost due thereon. It shall be the duty of such party to pay the taxes and fees assessed and charged against said property. But the failure to comply with the requirement of this section, or the failure to receive said statement shall not invalidate a sale of said property for taxes, nor invalidate the title of any property sold for taxes.

Section 2. It shall be the duty of the tax collector, within the time allowed by law, to furnish the probate judge a list of all property on which the entire amount of taxes has not been paid, which list shall show the name of the person to whom said property was assessed, and the tax collector shall certify the amount of taxes, fees and cost due on each parcel so listed and the parcel number as appears on the records of the tax assessor, but not the precinct in which said property is located. On receiving said list, the judge of probate shall, as speedily as practicable, give notice by publication one time, one week in a newspaper published in Marshall County substantially in the following form: "The State of Alabama, Marshall County, To whom it may concern: Take notice that the tax collector has filed in my office a list of delinquent taxpayers, and the real estate upon which taxes are due and therein reported that taxes on certain real estate assessed to the following named parties are delinquent (here insert names of delinquent taxpayers). This is to notify you to appear before the probate court of this county at the next term thereof, commencing on Monday, the _____ day of _____, 19____, then and there to show cause; if any you have, why a decree of sale of said real estate should not be made for the payment of the taxes, fees and cost assessed upon each piece or parcel of land. (Here probate judge signature), Judge of Probate." In answer to such notice, any person having an interest in or, claim to such real estate, may appear and defend against the proceedings seeking to condemn the same to sale for the payment of taxes assessed thereon. When practicable, all real estate so assessed for any one year must be incorporated in one notice.

Section 3. Such cause shall be triable at the term named in said notice, and unless the cause is contested at the trial term, the probate judge shall forthwith issue his decree for the sale of lands. It

shall be the duty of the tax collector to attend the several terms of the probate court at which any of such causes are triable, and to have with him his list, and such tax list shall, in all cases, be accepted as prima facie evidence of the amount of taxes and fees due, and that the same have been properly assessed and charged, and are unpaid. Upon a trial of said cause if no defense is interposed or if interposed and on trial thereof is not sustained by the evidence adduced, the probate judge shall make and enter a decree of sale substantially in the following form: "It appearing to the court that the taxes have been assessed against the real estate mentioned in this cause in the amount set opposite each piece or parcel of real estate described herein, and that the same is still due and unpaid and it further appearing that notice of these proceedings has been given as required by law and no valid defense has been interposed against the sale of such real estate for the payment of the taxes. It is therefore ordered, adjudged and decreed by the court that the State of Alabama, Marshall County, and any municipality in which said property is located, has a lien for the payment of the amount of taxes set opposite each piece or parcel of real estate together with interest at the rate of six percent on said sum from _____ (the date said taxes became delinquent), and for the additional sum of fees, charges and cost in this cause in the amount set opposite each piece or parcel of real estate in a column marked 'fees and cost' on the real estate mentioned in this cause. It is further ordered, adjudged and decreed that said real estate be sold for the payment of said delinquent taxes, and of said fees, charges and cost, and expense of such sale." Such decree, when entered, shall be signed by the judge of probate and shall have, when the jurisdiction of the court is shown, the effect of judgment in other cases in courts of record and shall have the same force and effect had said judgment been entered against each piece or parcel of real estate described therein. Any person having any interest in any piece or parcel of property ordered to be sold shall have the right to appeal from said judgment in the manner now provided for by law in appealing from a decree ordering a sale of property for taxes, on any piece of property so ordered to be sold. Immediately at the end of any term of court at which any decree for sale of real estate for the payment of taxes is rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decree by sale of the real estate ordered to be sold, and to this end shall give notice for thirty days before the day of sale by publication, once a week, for three successive weeks in some newspaper published in the county, that at the time specified therein he will proceed to sell such real estate separately, describing such portions as are referred to in said decree and stating the amount for which each parcel of real estate is to be sold and against whom assessed and the amount of taxes, fees, charges and cost against each piece or parcel of

property. For notice to each delinquent property owner to show cause why a decree of sale should not be rendered against the property assessed to him, the probate judge is entitled to a fee of five dollars, and the tax collector shall be entitled to a fee of five dollars for making sale against each person whose property was sold for taxes, and the judge of probate shall be entitled to a fee of five dollars for confirming and making a report of said sale, but no other fee shall be charged by the tax collector or probate judge. Said fees shall, in the discretion of the tax collector, be charged against the highest assessed piece or parcel of the taxpayer or against his home place. The probate judge shall confirm and make a report of said sale to the state as now required by law except that he shall not be required to report the amount of state, county, municipal or special district school taxes due on each parcel of land, provided he furnishes the parcel numbers which parcel number shall clearly indicate in which district or municipality each piece or parcel of land is located and its rate of taxation.

Section 4. All other provisions of any laws in regard to the sale of real estate for ad valorem taxes not inconsistent herewith shall be applicable to the sale of property in Marshall County, Alabama.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. This act shall become effective upon the adoption of an amendment to the Constitution of Alabama authorizing the provisions of this act.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-609

H. 893 — Rep. Bryant

AN ACT

Relating to Hale County; authorizing the county commission to levy a severance tax on those persons, firms and corporations severing pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel in the county; providing for the collection of the tax by the department of revenue; and providing for enforcement and distribution of the proceeds of the tax.

Be It Enacted by the Legislature of Alabama:

Section 1. When used in this act, unless the context plainly indicates otherwise, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Department" means the state department of revenue.
- (b) "Person" means any individual, firm, partnership, corporation, association, or any combination thereof.
- (c) "Producer" means any person engaging in the business of severing pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel from the soil within Hale County.
- (d) "Purchaser" means any person acquiring title, outright or conditionally, to any interest in severed pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel.
- (e) "Severing" means cutting, mining, stripping, or otherwise taking or removing from the soil within Hale County.
- (f) "Ton" means a short ton of 2, 000 pounds.
- (g) "Transporter" means any person transporting pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel from the place where it is severed or from any other place to any other place, within or without Hale County.

Section 2. There is hereby levied, in addition to all other taxes imposed by law, an excise and privilege tax on every person severing pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel within Hale County. The tax shall be paid to the department of revenue at the rate of up to five cents per ton or six and one-half cents per cubic yard by every producer who severs pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel within Hale County.

Section 3. Every producer shall within twenty (20) days after the end of each calendar month, whether or not he shall have severed or sold any pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel during that month, file with the department of revenue a report which shall set forth, in a form prescribed by the department, the amount of pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel in tons, of any, severed or sold, as the case may be, by such producer during the next preceding calendar month; the point of severance thereof; the amount of tax due; and such other information as the department may reasonably require for the proper enforcement of the provisions of this act. The producer shall accompany such report with payment of the full amount of the tax shown to be due. The report shall be signed by the producer himself in the case of an individual producer, or by a member, officer, or manager of the producer in other cases.

Section 4. Purchaser and transporters of pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel severed in Hale County shall file a report with the department of revenue, on forms prescribed by the department, within twenty (20) days after the end of each calendar month in which such purchaser or transporter purchased or transported pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel severed in Hale County. The report shall state the names and addresses of all producers in Hale County from whom such purchaser or transporter has received pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel during such calendar month; the total quantity of pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel so acquired; and, in the case of a transporter, to whom and where each ton of pit run sand, clay, sand-gravel, clay-gravel, sand-clay and gravel was delivered; and such other information as the commissioner may reasonably require for the proper enforcement of the provisions of this act. The report shall be signed by the purchaser or transporter himself in the case of an individual purchaser or transporter, or by a member, officer or manager of the purchaser or transporter in all other cases.

Section 5. The tax authorized to be imposed by this act shall constitute a debt due Hale County and may be collected by civil suit, in addition to all other methods provided by law. The said tax, together with interest thereon, shall constitute and be secured by a lien upon the property of any person from whom said tax is due. All provisions of the revenue law of this state which apply to the enforcement of liens for taxes due the state shall apply fully to the collection of the county tax levied herein, and the state department of revenue for the use and benefit of Hale County shall collect such taxes and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or department has for collection of the state stone severance tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department of revenue shall pay such special counsel's fee, as it deems necessary an proper from the proceeds of the taxes collected by it for Hale County.

Section 6. The state department of revenue shall charge Hale County for collecting the county tax levied herein, an amount or percentage of total collections not to exceed five percent of the total amount of tax collected hereunder. Such charge for collecting the tax for the county may be deducted each month from the proceeds of the tax before certifying the amount thereof due Hale County for that month.

Section 7. The Hale County treasurer shall deposit the net proceeds of the tax levied and collected pursuant to this act during the preceding month to the account of the county road and bridge fund.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this act are hereby repealed.

Section 10. This act shall become effective on the first day of the second month after its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-610

H. 961 — Reps. Burke, Lindsey, McDaniel

AN ACT

Relating to DeKalb County; providing that the county commission or other like governing body of such county shall have the power to levy and collect additional privilege license taxes, gasoline taxes, sales and use taxes and other taxes and/or fees; providing that any such tax levied by said governing body shall become law either with or without a referendum in the sole discretion of said governing body; providing for the disposition of the proceeds of such taxes; and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. Subject to any limitation of the Constitution of Alabama or of any general law of this state, the DeKalb County Commission or other like governing body shall have the power to levy and collect additional privilege license taxes, gasoline taxes, sales and use taxes and other taxes and/or fees. The revenue from any of the taxes and/or fees authorized above shall be deposited into the county treasury to be used in the manner prescribed by the county commission or by law.

Section 2. The county commission of DeKalb County is hereby empowered and authorized to implement the additional taxes and/or fees as provided for in Section 1 of this act.

Section 3. Any such additional tax and/or fees levied by said governing body shall become law either with or without a referendum in the sole discretion of said governing body; in the event said

county commission provides that said tax and/or fees levied shall become law only upon approval of a majority of those voting in any election called for by said governing body for such purpose, then said election shall be held not less than 30 days nor more than 90 days after said county governing body adopts such a resolution. However, at any future date the DeKalb County Commission may repeal any taxes or fees levied under the provisions of this act. All authority given under the provisions of this act expires November 1, 1994.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-611

H. 1019 — Reps. Hogan, Cagle

AN ACT

Relating to supernumerary district attorneys of the fourteenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Any elected district attorney of the fourteenth (14th) judicial circuit who elects to become a supernumerary district attorney after the effective date of this act shall be entitled to a salary supplement equal to the salary supplement which is payable to a supernumerary district attorney of the tenth (10th) judicial circuit pursuant to the provisions of Act No. 82-347, S. 508, Regular Session 1982 (Acts 1982, p. 501).

Section 2. This act shall apply only to persons who elect to become a supernumerary district attorney after the passage of this act and said compensation is supplemental to compensation paid a supernumerary district attorney by the State of Alabama. This act shall not increase the salary of the elected district attorney of the fourteenth (14th) judicial circuit.

Section 3. Said salary supplement shall be paid in 12 equal monthly installments by the office of prosecution services from funds appropriated by the State of Alabama to the office of district

attorney of the fourteenth (14th) judicial circuit and/or from funds the district attorney of said circuit is hereinafter directed to deposit with the office of prosecution services.

Section 4. (a) The district attorney of the fourteenth (14th) judicial circuit shall cause to be deposited with the office of prosecution services sufficient funds to accomplish all provisions of this act. Funds so deposited shall include but shall not be limited to any funds made available to the district attorney of the fourteenth (14th) judicial circuit for law enforcement purposes.

(b) The district attorney of the fourteenth (14th) judicial circuit may deposit with the office of prosecution services funds for future payments pursuant to this act.

(c) All funds deposited by the district attorney of the fourteenth (14th) judicial circuit with the office of prosecution services pursuant to the provisions of this act shall not be subject to transfer or withdrawal by any other party and shall be used solely to accomplish the provisions of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-612

H. 1067 — Rep. Harvey

AN ACT

Relating to Blount County; providing that the county commission shall have the power to levy and collect additional privilege license taxes, excise taxes, gasoline taxes and sales and use taxes; providing that any such tax levied by said county commission shall become law either with or without a referendum in the sole discretion of said county commission; and providing for the disposition of the proceeds of such taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Subject to any limitation of the Constitution of Alabama or of any general law of this state, the Blount County Commission shall have the power to levy and provide for the

collection of additional privilege license taxes, excise taxes, gasoline taxes and sales and use taxes. The proceeds from any of the taxes authorized above shall be collected by the state department of revenue, less any costs of collection, and shall be deposited into the county treasury to be used in the manner prescribed by the county commission or by law. The amount deducted from said proceeds by the department of revenue for the cost of collection shall be an amount equivalent to five percent (5%) of the revenue collected hereunder.

Section 2. The county board of education of Blount County shall, periodically upon receipt of the proceeds from the county commission from any of the taxes authorized hereunder, divide or pro rate said funds to the county board of education and to any or all other independent boards of education within said county upon the same basis that the state department of education pro rates the Minimum School Program funds between the county board of education of Blount County and the independent school board or boards within said county.

Section 3. The state department of revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

Section 4. The county commission of Blount County is hereby empowered and authorized to implement the additional taxes as provided for in Section 1 of this act.

Section 5. Any such additional tax levied by said county commission shall become law either with or without a referendum in the sole discretion of said county commission; in the event said county commission provides that said tax levied shall become law only upon approval of a majority of those voting in any election called for by said county commission for such purpose, then said election shall be held not less than 30 days nor more than 90 days after said county commission adopts such a resolution. No taxes shall be implemented under the provisions of this act after December 31, 1991.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-613

H. 1078 — Reps. Turnham, Higginbotham

AN ACT

Relating to Lee County; to authorize the county commission to levy a tax on each ton or cubic yard of rock or other substance quarried in the county; to provide that the proceed shall be expended on the repair or maintenance of roads and bridges.

Be It Enacted by the Legislature of Alabama:

Section 1. The county commission of Lee County is hereby authorized and empowered to levy a tax on each ton or cubic yard of rock or other substance quarried in the county.

Section 2. The proceeds of any tax levied under the provisions of this act shall be used for county road and bridge repair and maintenance with priority going to roads and bridges in the vicinity of quarries and associated plants.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-614

H. 579 — Reps. Parker (P), Parker (T)

AN ACT

To authorize the several state departments and agencies to prepay to officers and employees necessary travel expenses for authorized official state business; to provide that such payments shall be made in accordance with rules and regulations promulgated by the state comptroller with the approval of the chief examiner of public accounts; to provide for certain limitations and the annual audit of the expenditure of funds used in accordance with the provisions of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. The departments and agencies of the State of Alabama are hereby authorized to prepay to employees of those departments and agencies an amount of money to be determined by the appointing authority of the various departments and agencies to pay necessary travel expenses for any one period of travel for such employees on authorized official state business inside or outside the state of Alabama. Such payment shall be made in accordance with rules and regulations promulgated by the state comptroller and

approved by the chief examiner of public accounts. Provided, that the state comptroller, in accordance with the procedure provided above, shall establish the maximum amount that may be prepaid for any officer or employee for any one period of travel.

Section 2. The department of examiners of public accounts shall examine the expenditure of funds used in accordance with this Act annually and report its findings to the joint legislative committee on public accounts.

Section 3. The provisions of this Act shall be supplemental and shall not be construed to repeal or supersede any Act not in direct conflict with this Act.

Section 4. This Act shall become effective immediately upon its approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-615

H. 580 — Reps. Parker (P), Parker (T)

AN ACT

Relating to state officers and employees; to authorize the state comptroller with the approval of the chief examiner of public accounts to establish procedures for the prepayment of travel expenses.

Be It Enacted by the Legislature of Alabama:

Section 1. The state comptroller, with the approval of the chief examiner of public accounts, may adopt rules and regulations to provide for the prepayment of travel expenses for state officers and employees traveling on authorized official state business. No traveler shall have expenses for any one period of travel prepaid for him in excess of any amount established according to the rules and regulations provided above provided, that the amount of expenses authorized to be prepaid for any one period of travel may vary based on the needs of the various state departments and agencies.

Section 2. The department of examiners of public accounts shall examine the expenditure of funds used in accordance with this Act annually and report its findings to the joint legislative committee on public accounts.

Section 3. The provisions of this Act shall be supplemental and shall not be construed to repeal or supersede any Act not in direct conflict with this Act.

Section 4. This Act shall become effective immediately upon its approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-616

H. 287 — Reps. Newton (C), Johnson, Beasley, Carothers, Mathis, Warren, Mikell, Black (L)

AN ACT

To address the nursing shortage affecting the Alabama Department of Public Health in rural areas by providing for loans for books, tuitions, fees, and other educationally-related expenses incurred by employees of the Alabama Department of Public Health attending nursing school on a part-time or full-time basis; to require such loan recipients to enter into a contract committing them to work as nurses full-time for the health department or for a federally-funded community health center in a rural area or underserved area of the state for at least four years; to provide for forgiveness of such loans for recipients who serve the health department in rural or underserved areas; to provide civil penalties for loan recipients who fail to honor the contract; to provide for full-time or part-time employment for such recipients while attending school.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purposes of this act, the following terms shall have the following meanings respectively ascribed to them:

(a) “Board” or “Board of Health” means the Alabama State Board of Health.

(b) “Department” means the Alabama Department of Public Health.

(c) “Rural area” or “Underserved area” means any county in the State of Alabama in which a city or municipality is located which has a single hospital serving such city or municipality where the average daily census for such hospital is twenty-five or less, or a county meeting such other definition of “rural area” or “underserved area” as the board may adopt.

(d) “Nursing degree” means a degree granted by an appropriately accredited institution of higher learning following at least a two year full-time course of study and entitling the recipient to be examined for certification as a registered professional nurse by the Alabama State Board of Nursing.

Section 2. The legislature of Alabama finds that there exists a critical shortage of registered nurses who are willing and able to provide health care to citizens in rural areas of Alabama. Such shortage is particularly acute in rural areas, and has a negative impact on the availability of care to low income and indigent citizens of Alabama who reside in rural areas. The legislature further finds that there are many dedicated employees of the Alabama Department of Public Health who are disqualified from training as registered nurses solely by reason of their inability to finance the cost of attending school to obtain the requisite degree. Such employees are also prevented or retarded in career advancement because of a lack of education. It is the intent of the legislature in adopting this act to address the nursing shortage in county health departments and in federally-funded community health centers in rural areas and to provide opportunities for career advancement for employees of the health department. Such a program will benefit both the State of Alabama and private sector employers by increasing the pool of nursing school graduates available to provide health care in Alabama.

Section 3. (a) Within the limits of the funds appropriated for or otherwise available to the loan program, the board shall be authorized to grant to each applicant deemed by the board to be qualified, a loan for the purposes of acquiring a nursing degree as defined in Section 1 of this act, upon such terms and conditions as may be imposed by the board and as provided for in this section.

(b) In order to be eligible, a loan applicant must:

(i) Be a citizen and a bona fide resident of the State of Alabama;

(ii) At the time of application, have been an employee of the department for at least three years in a position not requiring a nursing degree;

(iii) Be accepted by and attend an accredited school of nursing approved and designated by the board; and

(iv) Agree to work as a nurse for the department or for a federally-funded community health center in an underserved or rural area of Alabama for not less than two years for each year of education financed by the board after obtaining certification as a registered professional nurse. The rural county health department or community health center in which the employee must work after graduation shall be designated by the board either in advance of enrollment or after graduation of the employee.

(c) Before being granted a loan, each applicant shall enter into a written obligation to the board, which shall be deemed legally

binding on the applicant, setting forth the conditions upon which the loan shall be granted to the applicant. The obligation shall include all terms and conditions specified in this act. The obligation shall be signed by the state health officer, or his designee, and by the applicant.

(d) The board shall have the authority to cancel any loan for good cause shown.

(e) The board is vested with full power and authority to sue in its own name any recipient for any balance due the state under the terms of this act. Any funds recovered by the board pursuant to such legal actions shall be deposited to the credit of the board and are hereby appropriated to the board of health to carry out the provisions of this act.

Section 4. Any recipient who is granted a loan by the board shall be granted a loan in an amount authorized by the board, not to exceed twenty thousand dollars (\$20,000.00), plus the employee's salary, if paid by the board while the employee attends school. This maximum loan amount may be adjusted upward by the board not more than once every two years. When the number of qualified applicants for loans exceeds the availability of funds, loans shall be granted by the board based upon an assessment of needs by rural or underserved areas for registered nurses, and based upon an assessment by the board of the merits of each individual application. Any loan made and granted to a recipient shall be made based upon the following conditions of repayment:

(a) The loan recipient shall repay the loan by working for the department or for a federally-funded community health center designated by the board after licensure as a registered professional nurse for a period of two full years for each year of full-time course of study financed by the board. Repayment shall be as follows: under a formula to be determined by the board, a proportionate share of the principal of the loan and of all interest accrued shall be forgiven and shall be deemed paid in full after completion of each full year of such service in the department or community health center in a rural area designated by the board.

(b) If the recipient does not remain employed by the department or a designated community health center for the full commitment period after licensure as a nurse, the remaining unpaid principal of the loan shall become due and payable on demand, with interest accruing at the rate of twelve percent per year from the date the loan obligation was signed by the recipient. In addition, there shall be included in any loan obligation a provision for liquidated damages in an amount equal to two thousand dollars (\$2,000.00) per year for each year remaining to be served under the obligation. Recipients who resign or who are discharged for

cause shall be deemed to not remain employed by the department. The board is authorized to rescind any obligation, or to suspend payment thereon, if it is owed by a recipient who becomes unable to perform employment duties due to a reduction in force, or who becomes disabled due to death, illness, injury, or infirmity.

(c) If the recipient fails or withdraws from school at any time before completing nursing training, or if the board cancels the loan for good cause, the principal of the loan shall become due and payable on demand with interest accruing at the rate of twelve per cent per annum from the date the recipient signed the obligation to repay the loan.

Section 5. The board of health is hereby authorized to expend available funds to offer loans and pay salaries to employees attending nursing school under such loan program as provided in this act.

Section 6. At the option of the board, recipients attending nursing school may be granted paid educational leave during times of such attendance. Employees attending school full-time shall be assigned duties in the health department on weekdays, except state holidays, when school is not in session, or shall be charged with annual leave or sick leave, as appropriate. Employees attending school part-time shall perform duties in the health department except when scheduled for class. Educational institutions approved by the board for participation in the program shall be required, as a condition of such approval, to submit monthly attendance reports to the department for all loan recipients. Employees granted paid educational leave shall be charged for annual leave for each school day or portion thereof when not in attendance. Repeated unexcused absences shall be sufficient cause for the board to cancel the loan agreement. Employees receiving salaries while attending school shall be required to repay as principal the total amount loaned for tuition, books, and other expenses, plus the total amount of their salaries paid while in attendance at school, in the event repayment is required under the provisions of Section 4 of this act.

Section 7. Loan funds shall not be disbursed directly to loan recipients. The board shall enter into agreements with all participating approved educational institutions whereby such institution shall be periodically reimbursed for tuition, books, fees, uniforms, and other associated costs incurred by loan recipients.

Section 8. All laws or parts of laws which conflict with this act are hereby repealed.

Section 9. This act shall take effect and be in force on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-617

H. 324 — Reps. Haynes, Johnson, Mathis, Carothers, Beasley, Thomas, Turner, Poole, Harper, Kennedy, Warren, Starkey, Higginbotham, Rogers (J), Newman

AN ACT

To amend Section 36-26-36.1 of the Code of Alabama 1975, relating to sick leave for state employees and teachers so as to provide further for the accumulation and use of such sick leave in determining years of creditable service in the employees' or teachers' retirement system of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-26-36.1 of the Code of Alabama 1975, is hereby amended to read as follows:

“§36-26-36.1.

“Any member of the teachers' or employees' retirement system of Alabama not otherwise covered by a provision to convert unused sick leave into membership service for purposes of service retirement may, at their option and in lieu of receiving payment for 50 percent of their accrued and unused sick leave at the time of their retirement as provided in section 36-26-36, or any other payment that may be provided for such unused sick leave, use their accrued sick leave, up to a maximum number of 180 accrued sick leave days or as otherwise allowed by law, whichever is greater, to be included as membership service in determining the total years of creditable service in the employees retirement system of Alabama or the teachers' retirement system of Alabama; provided that no employee of an employer participating in the employees' retirement system pursuant to section 36-27-6 shall be entitled to the benefits provided herein unless such employer shall elect to come under the provisions of this section and further elects to fund the benefits provided herein. Unused sick leave maybe converted to membership service only for the purpose of applying for service retirement and may be considered in the determination of eligibility for retirement. Said conversion shall not apply to eligibility for deferred retirement. It is further provided that if an employee eligible for service retirement is also eligible for disability retirement such employee may elect disability retirement and also receive credit for accumulated sick

leave pursuant to this section. No employee shall receive both service credit provided for by this section and payment or partial payment for accrued sick leave pursuant to any other provision of law."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. No. 91-618

H. 231 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Lighthouse Counseling Center for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Lighthouse Counseling Center from the State General Fund the sum of Six thousand five hundred forty-one dollars (\$6,541).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-619

H. 251 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Alabama Council for Parenting and Protecting Children, Inc. for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Alabama Council for Parenting and Protecting Children, Inc. from the State General Fund the sum of Seventy-two thousand three hundred twenty-three dollars (\$72,323) for the prevention of child abuse and neglect.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-620

H. 233 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Elyton Recovery Center for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Elyton Recovery Center from the State General Fund the sum of Seventy-two thousand three hundred twenty-three dollars (\$72,323).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-621

H. 243 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Commission on Aging for the Care Assurance System for the Aging and Homebound for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Commission on Aging for the Care Assurance System for the Aging and Homebound from the State General Fund the sum of Forty-eight thousand two hundred fifteen dollars (\$48,215).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-622

H. 244 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Beacon House—Jasper for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Beacon House — Jasper from the State General Fund the sum of Forty-eight thousand two hundred fifteen dollars (\$48,215).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-623

H. 416 — Reps. Harper, Payne, Black (M),
Hammett, Curry, Buskey (JE),
Clark (W), Biddle, Starkey,
Freeman, Hall, Holmes,
Morton, Carns, Hamilton,
Haney, Sanderson, Hill, Poole,
Harvey

AN ACT

To amend §40-23-2, Code of Alabama, 1975, relating to taxes levied on certain gross receipts, so as to provide that athletic events conducted by a primary or secondary public school shall be exempted from said tax and to provide that said funds shall continue to be collected and shall be retained by the collecting school.

Be It Enacted by the Legislature of Alabama:

Section 1. §40-23-2, Code of Alabama, 1975, is hereby amended to read as follows:

“§40-23-2. There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

“(1) Upon every person, firm, or corporation, (including the state of Alabama and its alcoholic beverage control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominations, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within this state, in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks, nor sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships and other watercraft of over 50 tons burden), an amount equal to four percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided,

however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer, on the gross sales of the business.

“Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however, this provision shall not be construed to include batteries.

“(2) Upon every person, firm or corporation engaged or continuing within this state in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a municipal institution, or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the state of Alabama, an amount equal to four percent of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior portion of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public primary or secondary school. The tax amount which would have been collected pursuant to this subsection shall continue to be collected by said public primary or secondary school but shall be retained by the school which collected it and shall be used by said school for school purposes.

“(3) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property an amount equal to one and one-half percent of the gross proceeds of the sale of such machines; provided, that the term ‘machines,’ as herein used, shall include

machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

“(4) Upon every person, firm or corporation engaged or continuing within this state in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto an amount equal to two percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subdivision withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of \$5.00 per person or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be of such withdrawal and shall run for the 12 succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

“Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in the trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

“Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers that will be registered or titled outside Alabama, that are exported or removed from Alabama within 72 hours by the purchaser or his agent for first use outside Alabama are not subject to the Alabama sales tax. Sales of other vehicles such as mobile homes, motor bikes, all terrain vehicles, and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of Alabama or to a common carrier for transportation outside Alabama. In order for the sale to be exempt from Alabama tax, the information relative to the exempt sale must be documented on forms approved by the revenue department.

“Of the total \$.02 tax on each dollar of sale provided hereunder, \$.015 or 75 percent of the total tax generated by this paragraph (4) shall be deposited to the credit of the Alabama special

educational trust fund; and \$.005, or 25 percent of the total tax generated by this paragraph (4) shall be deposited to the credit of the state general fund.

“(5) Upon every person, firm or corporation engaged or continuing within this state in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to three percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of such business.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-624

H. 857 — Rep. Harper

AN ACT

To amend section 40-23-68 of the Code of Alabama 1975, to provide that the use taxes levied therein shall be paid to the State on a monthly basis beginning October 1, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-23-68 of the Code of Alabama 1975, is hereby amended to read as follows:

“§40-23-68.

“The tax imposed by this article shall be due and payable to the department quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use or other consumption of tangible personal property became taxable hereunder, the first of such quarterly periods being the period commencing with March 1, 1939, and ending June 30, 1939, the last such quarterly payment to be due and payable October 20, 1991 for the quarter ending September 30, 1991. Beginning October 1, 1991, the tax imposed by this article shall be due and payable to the department monthly on or before the twentieth day of the month next succeeding each month during which the storage, use or other consumption of tangible personal property became taxable hereunder, the first of such monthly payments to be due November 20, 1991, for the month of October, 1991. Every seller engaged in making retail sales of

tangible personal property for storage, use or other consumption in this state, who:

- (1) Maintains a place of business;
- (2) Qualifies to do business;
- (3) Solicits and receives purchases or orders by agent or salesman; or

(4) Distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the state of Alabama, shall, on or before the twentieth day of the month following the close of each month file with the department a return for the preceding month in such form as may be prescribed by the department showing the total sales price of the tangible personal property sold by such seller, the storage, use or consumption of which became subject to the tax imposed by this article during the preceding month and such other information as the department may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. Returns shall be signed by the seller or his duly authorized agent but need not be verified by oath. Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the tax imposed by this article, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect the tax, shall on or before the twentieth day of the month following the close of each month file with the department a return for the preceding month in such form as may be prescribed by the department showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the tax imposed by this article during the preceding each month and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the tax, and such other information as the department may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return. Returns shall be signed by the person liable for the tax or his duly authorized agent, but need not be verified by oath. For the purpose of the proper administration of this article and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state unless the person selling such property shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale and it shall be further

presumed that tangible personal property shipped to this state by the purchaser thereof was purchased from a retailer on and after March 1, 1939, for storage, use or other consumption in this state. Any seller making cash and credit sales for storage, use or other consumption in Alabama may report such cash sales and shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the tax to be paid until collections of such credit sales shall have been made."

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon passage by the legislature and the approval of the Governor.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-625

H. 211 — Rep. Harper

AN ACT

To make an appropriation to the Department of Education for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated to the Department of Education for the fiscal year ending September 30, 1992 the following amounts from the Alabama Special Educational Trust Fund (ASETF) and Federal and Local Funds:

	ASETF	Earmarked Funds	Total
EDUCATION, DEPARTMENT OF:			
(a) Direct Client Services for the Handicapped Program.....			66,448,781

The proposed spending plan for the ASETF moneys included in the above program is as follows:

Homebound2,098,256

Hemophilia.....1,059,080

Children's Rehabilitation
Services6,479,076

Of the above appropriation the
agency will pay to each hos-
pital the standard per diem
paid by the state medicaid
agency for services relating
to scoliosis and spina bifida
medical care.

Rehabilitation

Services8,787,020

Of the above appropriation to
Rehabilitation Services,
\$250,000 shall be used for
the Deaf Support Service.

SOURCE OF FUNDS:

(1) ASETF.....	18,423,432		
(2) Federal and Local Funds		48,025,349	
<hr/>			
Total Direct Client Services for the Handicapped Pro- gram	18,423,432	48,025,349	66,448,781
(b) Disability Determination for Social Security Pro- gram			19,160,858

SOURCE OF FUNDS:

(1) Federal and Local Funds.....		19,160,858	
<hr/>			
Total Disability Determina- tion for Social Security Program.....		19,160,858	19,160,858
<hr/>			

TOTAL DEPARTMENT OF EDUCATION:

SOURCE OF FUNDS:

(1) ASETF.....	18,423,432		
(2) Federal and Local Funds		67,186,207	
<hr/>			
TOTAL DEPARTMENT OF EDUCATION	18,423,432	67,186,207	85,609,639
<hr/>			

SECTION 2. The above appropriation is made for educational purposes which shall include but shall not be limited to the following: (a) Providing medical, paramedical, counseling and educational services (instruction in the training of disabled persons) to crippled children and their families. The Legislature recognized the educational nature of such services in Section 16-38-7 of the Code of Alabama 1975; (b) Providing vocational rehabilitation through a state-federal initiative for the purpose of teaching independent living skills in order to return the clients to the workforce; (c) Providing educational services to severely disabled clients which includes academic tutoring, teaching of independent living skills, and providing equipment (wheelchairs and ramps) to allow school-age children to attend school.

SECTION 3. The Department of Education is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1992.

SECTION 4. The provisions of this Act are severable. If any section, paragraph, sentence, clause, provision, or portion of this Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

SECTION 5. This Act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-626

H. 234 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the East Alabama Child Development Center for the fiscal year 1991-92 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the East Alabama Child Development Center from the Alabama Special Educational Trust Fund, the sum of one million one hundred twenty-two thousand five hundred forty-nine dollars (\$1,122,549).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-627

H. 246 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund for the support and maintenance of Camp ASCCA, in Jackson Gap, Alabama for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of three hundred thirty-one thousand fourteen dollars (\$331,014), out of the funds in the Alabama Special Educational Trust Fund, to Camp ASCCA in Jackson Gap, Alabama, to be used for the support and maintenance of said facility.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-628

H. 281 — Rep. Harper

AN ACT

To appropriate the sum of \$750,000 from the Alabama Special Educational Trust Fund to the State Department of Education for the fiscal year ending September 30, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the State Department of Education from the Alabama Special Educational Trust Fund the amount of seven hundred and fifty thousand dollars (\$750,000) for the fiscal year ending September 30, 1991. It is further provided that the above appropriation of \$750,000 shall be used solely to satisfy the court ordered settlement against the state in the case styled Alabama State Board of Education v. Glenda S. Brown, et al. Any balance remaining after said settlement shall revert to the Alabama Special Educational Trust Fund. The State Superintendent of Education shall certify to the State Finance Department and the Legislative Fiscal Office the detailed expenditure of the funds appropriated by this Act prior to November 1, 1991. Such report shall contain the amount of expenditures by school system.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-629

H. 653 — Rep. Carothers

AN ACT

To establish the Alabama Public Livestock Marketing Business Act; to establish a board to promote the marketing of livestock; and to establish charters for public livestock markets and to fix fees therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the “Alabama Public Livestock Marketing Business Act.”

Section 2. It is the legislative intent of this act to encourage, stimulate and stabilize the agricultural economy of this state in general, and the livestock economy in particular. This shall be accomplished by encouraging the development and productive operation by public livestock marketing businesses as a key industry of the state with all benefits of fully open, free, competitive factors, with respect to the sales and purchases of livestock.

Section 3. No person shall conduct the business of a public livestock market without obtaining a valid charter pursuant to the provisions of this act.

Section 4. The following definitions shall have the following meanings respectively ascribed to them unless the context clearly indicates otherwise:

(a) "Board" means the Alabama State Public Market Board created pursuant to this act.

(b) "Livestock" means cattle, horses, mules, swine, sheep, goats and exotic animals.

(c) "Livestock Market" means a place, concentration or collection point or other public or private place where a person shall assemble livestock for either public or private sale by him and the service or the cost or expense thereof is to be compensated by the owner, on a commission basis or otherwise. Such term shall not include:

(1) Any place, other than at a permanently established livestock market, used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale;

(2) any farm, ranch or place where livestock either raised or kept thereon for the grazing season or for fattening is sold and no other livestock is brought there for sale or offered for sale;

(3) the premises of any butcher, packer or processor who receives animals exclusively for immediate slaughter;

(4) the premises of any person engaged in the raising of livestock for breeding purposes only who limits his sale to animals of his own production;

(5) any place where a producer or an association of producers of livestock of any class assemble and offer for sale and sell under his or their own management any livestock when such producer or association of producers shall assume all responsibility of such sale and the title of livestock sold; and

(6) any place, other than a permanently established livestock market, used solely for livestock sales of 4-H clubs, Future Farmers of America and other youth organizations of like kind.

(d) "Commissioner" means the Commissioner of the Alabama Department of Agriculture and Industries.

(e) "Charter" means the charter for a public livestock market business authorized to be issued under this act.

(f) "Person" shall include any individual, association, partnership, corporation, or other entity.

(g) "Livestock Market Owner" means any person engaged in the business of conducting or operating a public livestock market whether personally or through agents or employees.

(h) "Department" means the Department of Agriculture and Industries.

Section 5. There is hereby created the Alabama Public Livestock Market Board which shall consist of eight (8) members as follows: two (2) members nominated and appointed by the Alabama Livestock Marketing Association; two (2) members nominated and appointed by the Alabama Cattlemen's Association; one (1) member nominated and appointed by the Alabama Pork Producers; one (1) member nominated and appointed by the Alabama Farmers Federation; and one (1) member nominated and appointed by the Alabama Dairy Producers. The eighth member will be the commissioner who shall be chairman of the board. It shall be the duty of the board to carry out the provisions of this act. The following persons shall be Ex Officio members of the board: One (1) representative from Auburn University; the chairman of the Senate Agriculture, Conservation & Forestry Committee; one (1) representative from the banking industry; and the chairman of the House Agriculture, Forestry & Natural Resources Committee.

Section 6. The members of the board, with the exception of the commissioner, shall be appointed for terms of three (3) years. The board is given authority to make all necessary bylaws, rules and regulations for the proper performance of its duties.

The board may provide for a per diem allowance for its members. In addition, each member shall be reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance.

Section 7. The application for a charter under this act shall include the following information, which is to be filed with the commissioner:

(a)(1) A detailed statement showing all the assets and liabilities of the applicant;

(2) the schedule of rates and charges the applicant proposes to impose on the owners of livestock for services rendered in the operation of such livestock market;

(3) the weekly or monthly sales day or days on which the applicant proposes to operate his public livestock market sales;

(4) projected source and quantity of livestock, by county, anticipated to be handled;

(5) projected income and expense statement for the first year's operation;

(6) facts upon which are based the conclusion that the trade area and the livestock industry will benefit because of the proposed market; and

(7) such other information as the commissioner may reasonably require.

(b) A charter application fee of two hundred fifty dollars (\$250.00) which will be retained by the Department of Agriculture and Industries whether or not the charter is granted.

Section 8. Upon the filing of such application the commissioner shall determine that all necessary information has been furnished and shall fix a reasonable time for the hearing thereon in the city itself, or the nearest city thereto, where the public livestock market is proposed to be located. The commissioner shall cause a copy of such application together with notice of the time and place of hearing, to be served by mail not less than fifteen (15) days prior to such hearing upon the following persons or associations:

(a) The charter applicant;

(b) all duly organized statewide livestock associations in the state who have filed written request with the board to receive notice of such hearings and such other livestock associations as in the opinion of the commissioner would be interested in such application; and

(c) the owners of all public livestock markets in the state. The commissioner shall give such further notice of the hearing by publication once in a daily and weekly newspaper circulated in the city or town where such hearing is to be held, as, in the opinion of the commissioner, will give public notice of such time and place of hearing to persons interested therein. A hearing shall be conducted by the board, at which interested persons may formally appear in support of opposition thereto. If, after the hearing, the board finds from the evidence presented that such public livestock market for which a market charter is sought would beneficially serve the livestock economy, such market charter shall be issued to the applicant. The board, in determining whether the charter shall be granted, shall consider the following:

(1) The financial stability, business integrity and fiduciary responsibility of the applicant;

(2) the adequacy of the facilities proposed to be used;

(3) the present market services elsewhere available to the trade area proposed to be served;

(4) the livestock industry marketing benefits to be derived from the establishment and operation of the public livestock market proposed in the application; and

(5) the economic feasibility of the proposed market service.

If the board finds the applicant is unqualified or determines that the charter should not be issued because of failure to comply with the standards prescribed in this act, it shall deny the application, and the applicant, or any interested party who claims to have been adversely affected by such an order, shall have the right to have the action of the board reviewed.

Section 9. The owner of any public livestock market operated and conducted as such on September 1, 1991, shall be issued a charter for the operation of said market, in accordance with the Alabama Department of Agriculture and Industries records. Each charter issued under this act is personal to the holder and may not be transferred to another place or legal entity or person.

Section 10. Fees required by this act shall be deposited in a special fund in the state treasury to the account of the Alabama Public Livestock Market Board. The fund shall be used by the board to pay the expenses of the administration of this act.

Section 11. A charter shall lapse upon transfer of the chartered business. "Transfer" for this purpose means any conveyance of any right, title or interest in a charter which results in ownership of one-half or more of the market by persons not indicated on the original application for charter as having a financial interest in the applicant. "Transfer" includes incorporation by an existing market owner, or dissolution of a corporate market owner, where accomplished for the purpose of changing the form of market ownership, and whether or not accompanied by a formal conveyance. No transfer shall be deemed to have taken place in such cases, where at least one-half the resulting ownership of the market, or of a corporate market owner, remains in persons indicated on the original charter application as having a financial interest in the applicant. The charter will lapse upon failure to pay the annual licensing fee as determined by the commissioner in accordance with the Alabama Livestock Industry Regulations.

Section 12. (a) Application must be made to amend a charter in the following instances which shall not amount to a transfer:

- (1) Change in the name of chartered market;
- (2) change in persons having a financial interest in a charter holder from those who appear in the application;
- (3) incorporation of a charter holder; and
- (4) dissolution of a corporate charter holder.

(b) If a charter must be amended, the following procedure will be followed. Notice shall be made by letter to the commissioner

detailing the reason for the application. The commissioner shall forward copies of the application to each board member, and thereafter, if he finds the notification to be in order, he shall issue an amended charter and shall supplement the information on file maintained in reference thereto.

Section 13. An appeal of a decision of the board refusing to grant an application for a certificate of a livestock business shall be taken to the district court of the county in which the proposed livestock market is to be located or in which the authorized livestock market has its principal place of business. The appellant shall file a bond with the clerk of the district court in the sum of \$300, to be approved by the judge, which shall be conditioned to pay all costs that may be awarded against the appellant in the event of an adverse decision or the decision of the department being affirmed. The cost of preparing transcripts shall be paid by appellant. In a case of suspension or revocation of a certificate, the filing of the notice and bond stays the order of the department until the final determination of the appeal. If the appellant fails to perfect the appeal, the stay shall automatically terminate.

Section 14. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 15. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-630

H. 227 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the United Cerebral Palsy of Alabama, the United Cerebral Palsy Development Center for East Central Alabama, the Simpson-May Cerebral Palsy Center, the Cerebral Palsy Housing Foundation, the United Cerebral Palsy of Mobile and the United Cerebral Palsy of Huntsville for the fiscal year 1991-92, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated from the Alabama Special Educational Trust Fund,

the sum of nine hundred fourteen thousand two hundred fifty-five dollars (\$914,255) as follows:

1. United Cerebral Palsy of Alabama\$529,540
2. United Cerebral Palsy Development
Center for East Central Alabama\$127,090
3. Simpson-May Cerebral Palsy Center.....\$127,090
4. Cerebral Palsy Housing Foundation.....\$48,140
5. United Cerebral Palsy of Mobile\$58,325
6. United Cerebral Palsy of Huntsville.....\$24,070

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-631

H. 228 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of one million eight hundred two thousand four hundred eighty-two dollars (\$1,802,482), out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the Special Schools for Special Education and to be distributed by the State Board of Education as follows:

- (a) Butler County Training School for
the Mentally Retarded in Greenville.....28,884

(b) Hope Haven School in Colbert County	38,512
(c) Montgomery Institute of Neurological Development	33,698
(d) Houston County Board of Education for the Vaughn-Blumberg Center for the Developmentally Disabled	57,768
(e) Alice Pigman Center	120,350
(f) Merle Wallace Purvis Center, formerly the Geneva County Day Care and Training Center	57,768
(g) McGraw Activity Center.....	57,768
(h) Dallas County Day Care and Training Center	57,768
(i) Calhoun County Community - "EDUCATION PAR EXCELLENCE"	96,280
(j) North Talladega County Association for Retarded Citizens, Inc.....	28,884
(k) South Talladega County Association for Retarded Citizens, Inc.....	28,884
(l) ECHO FOUNDATION	24,070
(m) Vivian B. Adams School	274,037
(n) McInnis School of Montgomery	422,669
(o) Alan Cott School	99,650
(p) Children's Hands-On Museum in Tuscaloosa.....	96,280
(q) Madison Country Opportunities Center.....	48,140
(r) Madison Park Hope Center	19,256
(s) Dee Day School-Cherokee County.....	28,884
(t) McKinney Learning Center, formerly the Clay County Learning Center-Clay County.....	28,884
(u) Jackson-DeKalb County Special School for the Retarded at Northeast Junior College	48,140
(v) Valley Haven School	57,768
Of the above appropriation to Valley Haven School, the amount of \$23,107 shall be transferred to the Randolph County ARC to be distributed to the Randolph County ARC in quarterly allotments.	
(w) Russellville City School for Multi- Handicapped Children	38,512

- (x) Trinity Presbyterian School4,814
 (y) North Alabama Education Opportunities Center.....4,814

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. The provisions of this act are severable. If any section, paragraph, clause, provision, or item of this act be held unconstitutional, such declaration shall not affect any portion that remains.

Section 4. This act shall become effective on October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-632

H. 672 — Rep. Black (M)

AN ACT

To amend §2-25-1, Code of Alabama (1975), which defines plants, plant pests, diseases and other definitions used in Chapter 25 to redefine plant pests and noxious weeds, dealers, plants, commissioner and board; to amend §2-25-2 by substituting plant pests and noxious weeds instead of insect pests and diseases in defining the purpose of Chapter 25; to amend §2-25-3 by substituting plant pests and noxious weeds for insect pests and diseases and adding plant pests and other articles capable of harboring plant pests or noxious weeds, and also allowing the commissioner to enter into cooperative agreements with other agencies, which said section defines the duty of the commissioner in protecting the agricultural interests of the state; to amend §2-25-4, which sets out the duties of the board by substituting plant pests and noxious weeds for insect pests and diseases and deleting its authority to enter into cooperative agreements; to amend §2-25-6, which sets up fees for obtaining inspection certificates for nurserymen and nurseries by allowing the state board of agriculture and industries to set fees; to repeal §2-25-7 in its entirety; to amend §2-25-8, which provides for revocation of inspection certificates; to amend §2-25-9, which provides for tagging of nursery stock by deleting those provisions that provide for recognizing out of state tags; to amend §2-25-10 by adding plant pests and noxious weeds to articles prohibited from being introduced into the state; to amend §2-25-13 by adding that plant products entering the state in violation of this law are contraband; to amend §2-25-14 by deleting the word agent; to amend §2-25-15 by substituting the words plant pests and noxious weeds for the words plant disease and insects; to amend §2-25-16, which prohibits improper destruction of infected plant cuttings, to add the words plant pests and noxious weeds; to repeal §2-25-17 in its entirety; to provide procedures to be used when nursery stock is found to contain plant pests and noxious weeds; to amend §2-25-18, which sets up appeal procedures

to be used from an order of the commissioner, to set up requirements for written notice of appeal within 10 days; to repeal §2-25-19 in its entirety; to make unlawful the sale of nursery stock that is not viable and to define viability in nursery stock; to set up procedures for fumigation or treatment of infested plants; to amend §2-25-22, which provides penalties for violation of this Chapter by defining misdemeanor and conferring upon the commissioner the powers of a sheriff in enforcing these laws; to provide for issuance of injunctions for violations; to provide that principals are responsible for their agents' acts; to allow the commissioner to call into consultation specialists at Auburn University; to provide that persons shipping plants shall notify the commissioner if there is a violation.

Be It Enacted by the Legislature of Alabama:

Section 1. §2-25-1, Code of Alabama (1975) is hereby amended to read as follows:

“§2-25-1.

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **PLANT PEST.** Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, or viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants or parts thereof or any processed, manufactured, or other products of plants and which may be a serious agricultural or horticultural threat in Alabama. Evidence of a plant pest shall be considered a public nuisance.

(2) **NOXIOUS WEED.** Any living stage, including, but not limited to, seeds and productive parts of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Alabama. Evidence of noxious weed shall be considered a public nuisance.

(3) **PLANTS and PLANT PRODUCTS.** Trees, shrubs, vines, forage and cereal plants and all other plants, cuttings, grafts, scions, buds and all other parts of plants and fruit, vegetables, roots, bulbs, tubers, seeds, wood, lumber, and all other products made therefrom.

(4) **NURSERY STOCK.** All plants, trees, shrubs, vines, cuttings, grafts, scions and buds grown or kept for or capable of propagation, distribution or sale, unless specifically excluded by the rules and regulations promulgated pursuant to this article.

(5) **NURSERY.** Any grounds or premises on or in which nursery stock is grown or propagated for sale or distribution.

(6) **NURSERYMAN.** Any person engaged in the production of nursery stock for sale or distribution to include any person who

obtains nursery stock for the purpose of growing it to a more mature size over a period of one growing season or more.

(7) **DEALER.** Any person not a grower of nursery stock who buys, receives on consignment or otherwise acquires and has in his possession nursery stock for the purpose of offering or exposing for sale, reselling, reshipping or distributing same. A person from out of state selling nursery stock directly to the public from a vehicle or from any other location within the state shall be considered a dealer whether such nursery stock is grown by him or not, and such person must comply with all requirements pertaining to the sale of nursery stock in Alabama. It shall include any person who is authorized to represent a nurseryman, another dealer or another agent in soliciting wholesale or retail orders for the sale of nursery stock, but who keeps no nursery stock on hand for sale, display or advertising purposes or for delivery at the time an order is taken.

(8) **PLACES.** Vessels, railroad cars, automobiles, aircraft, and other vehicles, buildings, docks, nurseries, orchards and other premises where plants or plant products are grown, kept or handled.

(9) **INFESTATION.** The actual presence of plant pests and/or noxious weeds or the existence of circumstances that make it reasonable to believe plant pests and/or noxious weeds are present.

(10) **COMMISSIONER.** The commissioner of agriculture and industries or his authorized representatives.

(11) **BOARD.** The state board of agriculture and industries.

(12) **PERSON.** Any individual, corporation, company, society, association or other business entity.

(13) **DISTRIBUTION.** The movement of nursery stock from the property where it is grown or kept to any other property that is not contiguous thereto, regardless of the ownership of the properties concerned."

Section 2. §2-25-2, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-2.

The purposes of this article are to prevent the introduction into and dissemination within this state of plant pests and noxious weeds injurious to plants and plant products of this state, to provide for the inspection and control of nurseries and the regulation of the sale and distribution of plants and plant products and to prescribe the powers and duties of the board and commissioner relative thereto."

Section 3. §2-25-3, Code of Alabama (1975), is hereby amended to read as follows:

“§2-25-3.

It shall be the duty of the commissioner to protect the agricultural and horticultural interests of the state from plant pests and noxious weeds; and, to that end, he is vested with power and authority to:

(1) Inspect or cause to be inspected by duly authorized employees, plants, plant products, places or other things and substances that may, in his opinion, be capable of disseminating or carrying plant pests or noxious weeds, and, for this purpose, he shall have power to enter into or upon any place and to open any bundle, package or other container containing or thought to contain plants or plant products or other things capable of disseminating or carrying plant pests or noxious weeds;

(2) Supervise or cause the treatment, cutting and destruction of plants, plant parts, fruit, soil, containers, equipment, and other articles capable of harboring plant pests or noxious weeds if they are infested or located in an area which may be suspected of being infested or infected due to its proximity to a known infestation or infection, or if they come from a situation where they are reasonably exposed to infestation or infection when necessary to prevent or control the dissemination of plant pests or noxious weeds, or to eradicate same and to prescribe rules and regulations therefor;

(3) Inspect or cause to be inspected all nurseries in the state at such intervals as he may deem best;

(4) Demand of any person who has plants or plant products or other things likely to carry plant pests or noxious weeds in his possession to give full information as to the origin and source of same, and it shall be a Class “C” misdemeanor for such person to refuse to give the information demanded, if able to do so;

(5) Declare a plant pest or noxious weeds to be a public nuisance as well as any plant or other thing infested or infected therewith or that has been exposed to infestation or infection and therefore likely to communicate same;

(6) Intercept and inspect while in transit or after arrival at destination all plants, plant products or other things likely to carry plant pests or noxious weeds being moved in this state or brought into this state from another state, territory or foreign country, and, if upon inspection, the same is found to be infested or infected with a plant, pest or noxious weed, or if such material is believed to be likely to communicate or transmit same or is being transported in violation of any of the rules and regulations of the commissioner, then said plants, plant products or other things

may be treated when necessary and released, returned to the sender or destroyed, such disposition to be determined under rules and regulations to be prescribed by the board and commissioner;

(7) Purchase all necessary materials, supplies, office and field equipment and other things and to make such other expenditures as may be essential and necessary in carrying out the provisions of this article;

(8) Enforce the provisions of this article and the rules and regulations made pursuant thereto by writ of injunction in the proper court as well as by criminal proceedings;

(9) To enter into cooperative arrangements with any person, municipality, county, and other department of this state and boards, officers, and authorities of other states and the United States for inspection with reference to plant pests and noxious weeds for the control and eradication thereof or to enter into cooperative agreements as above, for the production and distribution of organisms, pesticides, chemical compounds, or other methods of control investigated, discovered, or developed. The commissioner may accept a royalty or other remuneration for his services or contribution, which shall be deposited into the agricultural fund for use in furtherance of this article; and

(10) To conduct hearings, administer oaths, to compel appearance of persons and any books, documents or records by subpoena or subpoena duces tecum, to examine any books or records kept by nurserymen or dealers in nursery stock which pertain to the business of handling, growing, distributing, selling, or any other activity involving plants, plant products, or nursery stock regulated by this article."

Section 4. §2-25-4, Code of Alabama (1975) is hereby amended to read as follows:

"§2-25-4.

It shall be the duty of the board to protect the agricultural and horticultural interests of the state and, to that end, it is vested with power and authority to:

(1) Make all such rules and regulations governing nurseries and the movement of nursery stock therefrom or the introduction of nursery stock therein as it may deem necessary to the eradication, control or prevention of the dissemination of plant pests or noxious weeds;

(2) Make rules and regulations to govern the grading, marking, sale and distribution of nursery stock by dealers and nurserymen;

(3) Provide rules and regulations under which nursery stock may be brought into this state from other states, territories and foreign countries;

(4) Make such rules and regulations with reference to plants and plant products while in transit through this state as may be deemed necessary to prevent the introduction into or dissemination within this state of injurious plant pests and noxious weeds;

(5) Declare a quarantine against any area, place, nursery, grove, orchard, county or counties within this state, other states, territories, foreign countries or portions thereof in reference to plant pests or noxious weeds and prohibit the movement within this state or any part thereof or the introduction into this state from other states, territories or foreign countries of all plants, plant products or other things from such quarantined places or areas which are likely to carry such plant pests and noxious weeds if such quarantine is determined, after due investigation, to be necessary in order to protect the agricultural and horticultural interests of this state. In such cases the quarantine may be made absolute or rules and regulations may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold or otherwise disposed of in this state; and

(6) Make and publish reasonable rules and regulations regarding the application for the issuance, or revocation of certificates of inspection, under §2-25-6."

Section 5. §2-25-6, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-6.

(a) Before any nurseryman or dealer in nursery stock shall sell, offer or expose for sale or distribution in this state any nursery stock, he shall apply for and obtain from the commissioner an inspection certificate indicating that he has complied with the provisions of this article and the rules and regulations promulgated thereunder. Said inspection certificate shall, among other requirements, be based upon an inspection conducted by the commissioner of the nursery stock and the area where it is kept, stored or grown. The inspection certificate issued by the commissioner shall **expire on September 30 and shall be renewable on or before October 1 for the succeeding fiscal year.**

Where nursery stock is grown at more than one location by one nurseryman, fees shall be based upon the aggregate acres in production of the nurseryman.

(b) Each application for a certificate of inspection shall be accompanied by an inspection fee. Said fee shall be determined by

the board under duly promulgated rules and regulations, but in no event shall the board prescribe fees in excess of \$200, nor less than \$10 for any one certificate. Those fees in existence at the time this law is enacted shall remain in existence until changed by the board as indicated above. Certain public agencies so designated by the board may, in the board's discretion, be exempt from the requirements of an inspection fee, although all other requirements for a certificate of inspection shall be met by said public agency. Delinquent fees shall be handled as provided under §2-9-2, but operating as a nurseryman or dealer without a valid and up-to-date certificate of inspection is a violation of the provisions of this article and will be handled accordingly.

(c) Before any nurseryman or dealer in nursery stock shall sell, offer or expose for sale or distribution any nursery stock grown in another state, such person shall file with the commissioner a duplicate certificate of inspection issued by the official certifying agency of the state where the nursery stock is grown together with the inspection certificate fee which shall be an amount based on the fee required under this section, and such inspection certificate shall expire on September 30 of each year and be renewable as of October 1; provided that the commissioner may enter into reciprocal agreements with the certifying agency of other states whereby no certificate or permit fee will be required, provided Alabama nurserymen and dealers who otherwise qualify are permitted to ship nursery stock into such states without having to pay a fee for an inspection certificate or permit granting that privilege and provided further, that the commissioner shall find that the inspection standards of that state are equal to those required by the Alabama law and rules and regulations of the department of agriculture and industries."

Section 6. §2-25-7, Code of Alabama (1975), is hereby repealed in its entirety.

Section 7. §2-25-8, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-8. The commissioner shall have the power to refuse to issue an inspection certificate or to recall or to revoke any certificate already issued when he shall have reasonable cause to believe that the applicant for or holder of said certificate may tend to introduce into the state or disseminate within this state plant pests or noxious weeds injurious to plants and plant products of this state, or if an applicant or holder of said certificate is selling, offering to sell, distributing or offering to distribute nursery stock in violation of this article or the rules and regulations promulgated thereunder.

The commissioner may also refuse to certify or revoke or suspend existing certification of any nursery stock or plant product when it has been determined that plant pests and/or noxious weeds exist on said stock or product, or that the nursery or site is in such condition with regard to growth and cultivation that an adequate inspection for plant pests cannot be made."

Section 8. §2-25-9, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-9.

Each box, bundle or package of nursery stock moved into or within the state of Alabama shall have a valid official tag bearing a copy of the certificate of inspection and seal of the department of agriculture and industries conspicuously attached. Official tags will be furnished at cost through the commissioner. Certificate tags are not required on local retail sales where such sales are made directly to the ultimate user of such nursery stock. Each box, bundle or package of nursery stock shipped into or within Alabama by any person shall bear a valid certificate tag, and shipments of stock not thus tagged shall be liable to confiscation by the commissioner."

Section 9. §2-25-10, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-10.

The introduction into this state of any live plant pest, noxious weed, or any regulated articles, or specimen of any disease injurious to plants, except under a special permit issued by the commissioner is hereby prohibited. He shall be the sole issuing agency for such special permits."

Section 10. §2-25-13, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-13.

Whenever the board or commissioner under the provisions of this article shall declare a quarantine against any place, nursery, grove, orchard, county or counties of this state, other states, territories or foreign countries as to plant, pest, or noxious weed, it shall be unlawful thereafter until such quarantine is removed for any person to introduce into this state or to move, sell or otherwise dispose of within this state any plant, plant product or other thing included in such quarantine, except under such rules and regulations as may be prescribed by the board or commissioner.

Any plant, plant product, or other thing included under a quarantine which is moved, sold, or otherwise disposed of within

the state in violation of this section, and any plant propagated from such plant, plant product, or other thing, shall be declared contraband and confiscated and destroyed by the commissioner without compensation to anyone.

Any plant, plant product, or other thing moved into a quarantined area shall itself be quarantined and subject to all restrictions of the quarantine."

Section 11. §2-25-14, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-14.

It shall be unlawful for any nurseryman or dealer to sell, give away, carry, ship or deliver for carriage or shipment any nursery stock except in compliance with the provisions of this article and the rules and regulations made pursuant thereto."

Section 12. §2-25-15, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-15.

It shall be unlawful for any person to import, sell, give away or have in possession for sale or barter fruits, nuts, vegetables, flowers of any kind, or plants or plant products in the state of Alabama that are infested or infected with plant pests or noxious weeds of a kind and to such an extent that it is likely to cause serious damage to products susceptible to the plant pests or noxious weeds."

Section 13. §2-25-16, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-16.

It shall be unlawful for any person owning or operating any nursery or fruit orchards of any kind to throw any cuttings or prunings of any fruit trees, nursery stock or ornamental trees or any fruit if said cuttings, prunings or fruit contain plant pests or noxious weeds into any public road, highway, lane, field or other enclosure or into any watercourse of any kind. Any of the above cuttings or prunings or fruit shall be destroyed with fire or by other methods approved by the commissioner within a reasonable time from the time such cuttings or prunings are made."

Section 14. §2-25-17, Code of Alabama (1975), is repealed in its entirety.

Section 15. §2-25-18, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-18.

The owner or person in charge may appeal the orders of the commissioner requiring treatment or destruction of plants, plant products or nursery stock by serving written notice of appeal on the commissioner within 10 days after receiving his orders or findings.

This appeal from the findings or orders of the commissioner shall lie to the state board of agriculture and industries, which shall, as soon as practicable, hear and determine the same. The order of the said board shall be enforced by the circuit court upon filing a complaint by the commissioner setting forth said order and requesting enforcement of the same."

Section 16. §2-25-19, Code of Alabama (1975), is hereby repealed in its entirety.

Section 17. §2-25-22, Code of Alabama (1975), is hereby amended to read as follows:

"§2-25-22.

Any person who shall violate any provision or requirement of this article or of the rules and regulations made thereunder or of any notice or order given pursuant thereto or who shall forge, counterfeit, destroy or wrongfully or improperly use any certificate provided for in this article or in the rules and regulations made pursuant thereto or who shall interfere with or obstruct any inspector or other employee of the commissioner in the performance of his duties shall be deemed guilty of a Class "C" misdemeanor.

Section 18. If the commissioner finds, on examination, any plant, plant product or nursery stock infested or infected with plant pests or noxious weeds, he shall notify in writing the owner or persons having charge of such premises to that effect, and the owner or person in charge shall, within 10 days after such notice, unless an appeal is taken as provided in this article, cause the removal and destruction of the infested and infected plant or plant product if it is incapable of successful treatment; otherwise, such owner or person in charge shall cause it to be treated as directed in the order of the commissioner. No indemnity shall be awarded to the owner for complying with the above notice or orders of the commissioner.

In case the owner or person in charge shall refuse or neglect to comply with the terms of the order within 10 days after receiving it, the commissioner may proceed to treat or destroy the infested or infected plant or plant product. The expense thereof shall be assessed, collected, and enforced against the owner by the commissioner. If such owner shall fail to pay all such expenses within 30 days, the attorney general shall, or shall cause the district attorney

of such circuit, to institute a civil action in the name of the state for the recovery of the same; and when judgment is recovered and collected, the sum shall be paid into the agricultural fund.

Section 19. It shall be unlawful to sell or offer for sale any plants or nursery stock unless such plants or nursery stock are viable and meet the basic requirements of a viable plant or viable nursery stock, at the time and place of sale. Nursery stock or plants that are capable of living and accomplishing the purpose for which they are grown, whether foliage, flowers, fruit or special use shall be considered viable. The basic requirements of viable nursery stock or viable plants are as follows:

(a) They must be free of physiological and pathological defects to the extent that all essential parts may function normally.

(b) The root system must have adequate roots or the ability to produce them to support normal performance of all essential parts of the plant. The root system must be adequately protected to prevent excessive loss of moisture while in storage and transit.

(c) The trunk and branches must be capable of transporting fluids throughout the plant and be free from any infirmity of a permanent nature which would interfere with this function. Any damaged branches must be capable of being pruned without seriously deterring growth of the plant.

(d) The leaves must be capable of performing essential manufacturing functions, such as photosynthesis. In the case of deciduous plants, when void of leaves, they must have the ability to put out new leaves capable of functioning normally.

Section 20. The commissioner is authorized to supervise or cause the fumigation or treatment of nursery stock, plans and plant products infested or infected by plant pests and/or noxious weeds. Fumigation or treatment may be performed by private employees or other persons supervised by the commissioner.

Section 21. In addition to any other penalties provided hereunder, the commissioner may apply for, and the Circuit Court shall grant a temporary restraining order, or temporary, or permanent injunction or both, restraining any person from violating or from continuing to violate any provisions of this article or any rules or regulations promulgated under this article, notwithstanding the existence of other remedies at law. Any such restraining orders or injunctions shall be issued without bond. Said action shall be brought in the name of the State of Alabama upon the relation of the attorney general and with his approval and such officer shall, upon his request, be assisted by the district attorney or deputy district attorney of the judicial circuit in which injunctive proceedings are filed.

Section 22. In construing and enforcing the provisions of this article, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, corporation or other principal within the scope of his employment or office shall in every case be deemed the act, omission or failure of such association, partnership, corporation or other principal as well as that of the individual.

Section 23. Any person, including a common carrier, who receives plants, plant products, nursery stock, or other things sold, given away, carried, shipped, or delivered by carriage or shipment within this state, as to which provisions of this article and the rules and regulations adopted pursuant thereto have not been complied with, shall immediately inform the commissioner and isolate and hold the plant, plant product, nursery stock or other thing unopened or unused subject to such inspection or other disposition as may be provided by the commissioner.

Section 24. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 25. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 26. This Act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-633

H. 752 — Rep. Flowers

AN ACT

To amend section 22-30B-2, Code of Alabama 1975, relating to fees paid by operators of commercial sites for the disposal of hazardous wastes or substances; so as to extend the time period in which exempted businesses may petition the department of revenue to qualify for such exempted status; to provide that the provisions of this amendatory act shall be retroactively effective to July 15, 1990; and to provide certain taxpayer relief concerning such exemption.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-30B-2, Code of Alabama 1975, is hereby amended to read as follows:

“§22-30B-2.

“(a) In addition to other fees levied, there is hereby levied a fee to be paid by the operators of each commercial site for the disposal of hazardous waste or hazardous substances in the amount of \$25.60 per ton for all waste or substances disposed of at such site.

“(b) For waste and substances which are generated outside of Alabama and disposed of at a commercial site for the disposal of hazardous waste or hazardous substances in Alabama, an additional fee shall be levied at the rate of \$72.00 per ton.

“(c) In addition to the fees levied hereinabove, there is hereby levied a total of \$9.00 per ton to be paid by the operators of each such commercial site for the disposal of hazardous wastes or hazardous substances in accordance with the following:

“(1) Eight dollars per ton effective October 1, 1989, \$7.00 of which shall be deposited in the general fund of the state to be used for general operations; and \$1.00 of which shall be deposited to the credit of the general fund of the county wherein such commercial hazardous waste disposal site is located, and all such proceeds shall be expended for such purposes as may be appropriated by local act;

“(2) Fifty cents per ton effective October 1, 1990, shall be deposited to the credit of the general fund of the county wherein such commercial hazardous waste disposal site is located, and all such proceeds shall be expended for such purposes as may be appropriated by local act;

“(3) Fifty cents per ton effective October 1, 1991, shall be deposited to the credit of the general fund of the county wherein such commercial hazardous waste disposal site is located, and all such proceeds shall be expended for such purposes as may be appropriated by local act.

“(d) Fees assessed herein against the operators of commercial sites for the disposal of hazardous waste or hazardous substances shall not be applied until after October 1, 1992, to waste disposed of at such sites by secondary lead smelters to the extent that said fees exceed the fees in effect on April 17, 1990; provided, however, that any business or industry which is exempt from the payment of any fees or taxes levied by this act that fails to develop and implement the technology to eliminate the generation of hazardous wastes and substances by October 1, 1992, shall pay to the general fund of the state of Alabama an amount equal to the additional fees and taxes levied by the provisions of this act that would have been due and payable at that time by the provisions of this act. Provided, further, that in order for any taxpayer to qualify for such exemption, a petition on a form provided by the department of revenue must be submitted to the department of revenue not later than September 30, 1991. It is further provided that any

taxpayer who has not qualified for such exemption prior to the effective date of this amendatory act, but who does so qualify by October 1, 1991, shall be relieved of any fee or charge assessed under the provisions of Act No. 90-326, H. 310, Regular Session 1990 (Acts 1990, p. 448 et. seq.), as hereby amended under this amendatory act. Said petition shall provide that the exempted taxpayer acknowledge awareness of the provisions of this act."

Section 2. The provisions of this amendatory act shall be retroactively effective to July 15, 1990.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Act No. 91-634

H. 141 — Reps. Zoghby, Payne

AN ACT

To amend Section 12-15-61, Code of Alabama 1975, relating to certain facilities used for detention and shelter care of children, so as to provide further for such detention and shelter care and to provide for subsidy by the state of certain costs thereof, effective October 1, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-15-61, Code of Alabama 1975, is hereby amended to read as follows:

"§12-15-61.

"(a) For the purpose of this section, the following terms shall have the following meanings:

"(1) DEPARTMENT. The department of youth services.

"(2) AVERAGE COST OF DETENTION. The average cost of detention of children as determined from experience in Alabama and as computed by the department.

"(3) REGIONAL DETENTION FACILITY. Any facility owned or operated by the state, any county or other legal entity licensed by and contracting with the department for the detention of children.

"(b) In providing detention and shelter or other care for children referred to or coming under the jurisdiction of the court, the court shall utilize only such facilities as have been established, licensed or approved by the department of youth services or department of human resources for such purposes.

"(c) After October 1, 1991, the department of youth services shall accept all children committed to it within seven days of notice of disposition.

“(d) A child shall not be detained in a jail or other facility for the detention of adults, unless the child has been transferred for criminal prosecution and the case is pending trial or appeal, or unless the juvenile court’s jurisdiction over such child has been terminated pursuant to section 12-15-34(h).

“(e) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child, who is or appears to be a child as defined by this chapter, is received at the facility, and shall deliver him to the court upon request or transfer him to a detention facility designated by the court.

“(f) The department shall develop prior to October 1, 1991, and implement on said dates a statewide system of regional detention centers which shall be licensed by the department of youth services for the detention of children.

“(g) The department shall subsidize the detention of children in said regional detention facilities in an amount up to one half the average cost of detention as herein defined, said amount depending on the provision of funds therefor by the legislature to the department. Regional detention facilities may contract with the department or other counties for the detention of children.

“(h) When a case is transferred to another court for criminal prosecution, the child shall be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of such person charged with crime.

“(i) Any law enforcement official shall, at the direction of the juvenile court, provide security and transportation services for the juvenile court in transporting children to and from secure detention facilities.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. The provisions of this amendatory act shall become effective October 1, 1991.

This Act became a law under Section 125 of the Constitution on July 30, 1991 without approval by the Governor.

Newton (D), Sanderson, Gaston,
Kvalheim, McMillan, Clay

AN ACT

To authorize the State Industrial Development Authority to sell and issue from time to time its bonds not exceeding \$100,000,000 in principal amount in addition to those heretofore authorized to be issued by it, provided not more than \$10,000,000 in aggregate amount shall be issued in any two-year period and not more than \$40,000,000 in aggregate principal amount of such bonds, in addition to bonds heretofore issued by the Authority, shall be outstanding at any one time (excluding refunding bonds); to prescribe certain additional powers and duties of the Authority, including (a) the power to make grants from the proceeds of the said additional bonds to counties, municipalities and local industrial development boards, economic development councils, airport authorities or port authorities, subject to certain limitations, for the purposes of paying costs of preparation of sites for use by certain enterprises and making certain local surveys incidental to industrial development; to provide that the Authority may issue and sell such bonds for the purpose of making the said grants; to provide for the execution, form and terms of such bonds and for the terms of sale thereof; to provide that such bonds and the income therefrom shall be exempt from taxation, that such bonds may be used to secure deposits of funds of the state and its political subdivisions, instrumentalities and agencies, shall be legal for investment of fiduciary funds and funds of the Teachers' Retirement System of Alabama, the Employees' Retirement System of Alabama, and the State Insurance Fund, and shall not create an obligation or debt of the state; to provide for the deposit, investment and disposition of the proceeds of the sale of the bonds of the Authority; to make an appropriation and pledge of funds from the special tax levied by Sections 40-25-2, 40-25-23 and 40-25-41, Code of Alabama 1975, to the extent necessary to pay the principal of and interest on bonds of the Authority; to authorize the Authority to pledge the funds so appropriated for the payment of the principal of and interest on its bonds; to provide that such principal and interest shall be payable solely from the funds so appropriated; and to provide that the state treasurer shall be the custodian of the funds of the Authority.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

"Authority" means the public corporation organized pursuant to the the provisions of Sections 41-10-20 through 41-10-32, Code of Alabama 1975.

"Board of Directors" means the board of directors of the Authority.

"Bonds" means the bonds issued under the provisions of this Act.

"Enterprise" means any industry, enterprise or business (whether or not for profit) engaged in activities deemed appropriate by the Authority, including without limitation those described in Division D (Major Groups 20 through 39) and Division F (Major Group 50) of the Standard Industrial Classification Manual (1987 Edition).

“Grantee” means a county, municipality, local industrial development board or economic development council or authority, airport authority or port authority organized as a public corporation in this state and authorized to undertake projects for enterprise, to which a grant of money is made as provided in Section 3 hereof.

“Nominal transferee” as used in Section 3 hereof means any person to whom a grantee transfers one or more sites for enterprise or any part of any thereof for less than fair market value and any person who derives title to such sites for enterprise or any part of any thereof through such a transferee.

“Person” unless limited to a natural person by the context in which it is used includes a private firm, a private association, a public or private corporation, a municipality, a county, or an agency, department of instrumentality of the state or of a county or municipality.

“Preparation of sites for enterprise” means the grading of sites for enterprise and the means of access thereto, and the draining thereof to prevent the accumulation of excess natural waters thereon, and other work relative to site preparation deemed necessary or appropriate.

“Sites for enterprise” means land owned by a grantee or potential grantee on which industrial facilities have been or will be constructed for sale or lease to an individual, private association or private corporation (whether or not for profit) for use as an enterprise.

“State” means the State of Alabama.

“Herein,” “hereby,” “hereunder,” “hereof,” and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such words are used.

The definitions set forth above shall be deemed applicable whether the words defined are used in the singular or plural. Whenever used herein, any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 2. Authorization to Issue Additional Bonds; Exemption from Usury Laws. In addition to all powers heretofore conferred on it by Acts heretofore enacted by the Legislature of Alabama, and in addition to all other powers conferred on it in this Act, the Authority is hereby authorized to sell and issue its bonds, not exceeding one hundred million dollars (\$100,000,000) in aggregate principal amount, for the purposes of making the grants of money authorized in Section 3 hereof and to anticipate by the issuance of its bonds the receipt of the revenues herein appropriated and pledged; provided

the Authority shall not issue more than ten million dollars (\$10,000,000 in aggregate principal amount of such bonds in any two-year period; and provided there shall not be more than forty million dollars (\$40,000,000) in aggregate principal amount of such bonds, in addition to bonds heretofore issued by the Authority, outstanding at any one time, but excluding for this purpose refunding bonds, which shall not be considered in determining such limit. The bonds authorized hereby may be sold in one or more series.

It is further provided that the Authority shall be exempt from the laws of the state governing usury or prescribing or limiting interest rates, including, without limitation, the provisions of Chapter 8 of Title 8 of the Code of Alabama 1975.

Section 3. Authorization to Make Grants of Money. The Authority is hereby authorized to make grants of money derived from the sale of its bonds, to grantees for use by the grantees for any one or more of the following purposes: (1) the making of surveys to determine the location of suitable sites for enterprise in the locality of the grantee; (2) the making of surveys to determine the availability of labor in the locality of the grantee and to classify such labor in terms of skills and educational level; (3) the preparation of sites for enterprise; or (4) any combination of any of the foregoing which the grantees consider appropriate and necessary for the promotion of industrial development in their respective localities.

Every grant of money made by the Authority, any part of which is made from the proceeds of the Authority's bonds, shall be made subject to the following terms and conditions, which are hereby declared to be legally enforceable, and may be enforced by the Authority, in any court of competent jurisdiction:

(a) No such grant shall be in an amount greater than the total of the following stated per centums of the costs that it is anticipated will be expended for the acquisition of land and the construction and equipment of the facilities that will occupy the site for enterprise with respect to which the grant is made, as such anticipated costs shall be certified to the Authority by a registered architect or a registered engineer or by the chief executive officer of the body to which the grant is made: Six per centum (6%) of the anticipated cost for the acquisition of land and the construction and equipment of facilities that will occupy said site when such costs are \$100,000 or less; five per centum (5%) of the anticipated cost when such anticipated cost exceeds \$100,000 but does not exceed \$200,000, but in no event shall the grant be less than \$6,000; four per centum (4%) of the anticipated cost when such anticipated cost exceeds \$200,000 but does not exceed \$400,000, but in no event shall the grant be less than \$10,000; three per centum (3%) of the

anticipated cost when such anticipated cost exceeds \$400,000 but does not exceed \$800,000, but in no event shall the grant be less than \$16,000; two per centum (2%) of the anticipated cost when such anticipated cost exceeds \$800,000 but does not exceed \$1,600,000, but in no event shall the grant be less than \$24,000; one per centum (1%) of the anticipated cost when such anticipated cost exceeds \$1,600,000 but does not exceed \$10,000,000, but in no event shall the grant be less than \$32,000; three quarters of one per centum (3/4%) of the anticipated cost when such anticipated cost exceeds \$10,000,000, but in no event shall the grant be less than \$100,000; provided, however, that the total of any grant so made shall not exceed \$150,000;

(b) No such grant or grants shall be made for any part of the anticipated costs of the preparation of a site for enterprise, and if made, shall not be used, in any case where any individual, private association or private corporation has received or is to receive an option to purchase the site for enterprise with respect to which the grant is made (as distinguished from improvements to be constructed on such site which are not to become a part of the site on which such improvements are to be constructed), or any part of any thereof, from the grantee or any nominal transferee of the grantee for less than the fair market value of such site;

(c) The Authority shall have power to audit the disbursements by the grantees from such grant or grants; and

(d) The Authority may specify any appropriate terms and conditions to facilitate the enforcement of the foregoing provisions of this paragraph.

Section 4. Details Respecting the Bonds. The Bonds of the Authority shall be signed by its president and attested by its secretary and the seal of the Authority shall be affixed thereto or a facsimile of such seal shall be printed or otherwise reproduced thereon; provided, that (a) a facsimile of the signature of one, but not both, of said officers may be printed or otherwise reproduced on any such Bonds in lieu of being manually subscribed thereon and (b) a facsimile of the signatures of both of the said officers may be printed or otherwise reproduced on such Bonds in lieu of being manually affixed thereof if the Authority, in its proceedings with respect to issuance of the Bonds, provides for manual authentication of such Bonds and the secretary designates a trustee or paying agent or named individuals who are employees of the state and who are assigned to the finance department or the state treasurer's office of the state to authenticate the Bonds. Any Bonds of the Authority may be executed and delivered by it any time and from time to time and shall be in such form or forms and such denomination or denominations and of such tenor

and maturity or maturities, shall bear such rate or rates of interest, which may be variable rates, shall be payable at such times and evidenced in such manner, and may contain such other provisions not inconsistent herewith, all as may be provided by the resolution of the board of directors of the Authority under which such Bonds are authorized to be issued; provided, that no bond of the Authority shall have a specified maturity date later than twenty years after its date. Any bond of the Authority may be made subject to redemption at the option of the Authority at such times and after such notice and on such conditions and at such redemption price or prices as may be provided in the resolution under which it is authorized to be issued; provided, that those Bonds of Authority having specified maturity dates more than ten years after their date shall be made subject to redemption at the option of the Authority not later than the end of the tenth year after their date, and on any interest payment date thereafter, under such terms and conditions and at such redemption price or prices as may be provided in the resolution under which such Bonds are authorized to be issued. Bonds of the Authority may be sold at such price or prices and at such time or times as the board of directors of the Authority may consider advantageous, either at public or private sale and by negotiation or by competitive bid. Bonds of the Authority sold by competitive bid must be sold, whether on sealed bids or at public auction, to the bidder whose bid reflects the lowest true interest cost to the Authority for the Bonds being sold, computed from their date to their respective maturities; provided, that if no bid acceptable to the Authority is received, it may reject all bids. The Authority may fix the terms and conditions under which each sale of Bonds may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this Act. Subject to the provisions and limitations contained in this Act, the Authority may from time to time sell and issue refunding bonds for the purpose of refunding any matured or unmatured Bonds of the Authority then outstanding. Such refunding Bonds shall be subrogated and entitled to all priorities, rights and pledges to which the Bonds refunded thereby were entitled. The Authority may pay out of the proceeds of the sale of its Bonds attorneys' fees and the expenses of issuance which the board of directors may deem necessary and advantageous in connection with the issuance of such Bonds. Bonds issued by the Authority shall not be general obligations of the Authority but shall be payable solely out of the funds appropriated and pledged thereof in Section 6 hereof. As security for the payment of the principal of and interest on the Bonds issued by it, the Authority is hereby authorized and empowered to pledge for payment of such principal and interest the funds that are appropriated and pledged in Section 6 hereof for payment of such principal and interest. All such pledges made by the Authority shall take

precedence in the order of the adoption of the resolutions containing such pledges; provided, that each pledge for the benefit of refunding bonds shall have the same priority as the pledge for the benefit of the bonds refunded thereby. All contracts made and all Bonds issued by the Authority pursuant to the provisions of this Act shall be solely and exclusively obligations of the Authority and shall not constitute or create an obligation or debt of the State of Alabama. All Bonds issued by the Authority and the income therefrom shall be exempt from all taxation in the state. Any Bonds issued by the Authority may be used by the holder thereof as security for any funds belonging to the state, or to any political subdivision, instrumentality of agency of the state, in any instance where security for such deposits may be required by law. Unless otherwise directed by the court having jurisdiction thereof, or the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust funds in Bonds of the Authority. Neither a public hearing nor consent of the department of finance of the state or any other department or agency shall be a prerequisite to the issuance of the Bonds by the Authority. The Bonds issued under the provisions of this Act shall be legal investments for funds of the Teachers' Retirement System of Alabama, the Employees' Retirement System of Alabama, and the State Insurance Fund.

Section 5. Deposit and Investment of and Disbursements from Bond Proceeds. The proceeds of all Bonds, other than refunding bonds, issued by the Authority remaining after paying expenses of their issuance, shall be deposited in the state treasury and shall be carried in the state treasury in a special or separate account or accounts. Such funds shall be subject to be drawn upon by the Authority, but any funds so withdrawn shall be used solely for the purposes for which the Bonds were issued as authorized in this Act.

The state treasurer, with the approval of the secretary of the Authority, shall invest funds not needed by the Authority within the ensuing thirty days for any purpose for which they are held, which investments shall be made in the manner authorized and provided for in Act No. 66 adopted at the 1945 Regular Session of the Legislature of Alabama. The state treasurer and the Authority may apply so much as may be necessary from the earnings on said investments toward satisfaction of the arbitrage rebate requirements under the Internal Revenue Code of 1986, as amended.

The proceeds from the sale of any refunding bonds issued hereunder remaining after paying the expenses of their issuance shall be used only for the purpose of refunding the principal of outstanding

Bonds of the Authority and of paying any premium that may be necessary to be paid in order to redeem or retire the Bonds to be refunded.

Section 6. Revenues of the Authority. For the purpose of providing funds to enable the Authority to pay at their respective maturities the principal of and interest on any Bonds issued by it under the provisions of this Act and to accomplish the objects of this Act, there are hereby irrevocably pledged to such purpose and there are hereby appropriated so much as may be necessary for such purpose of: (a) the residue of the receipts from the tax levied by Sections 40-25-2 and 40-25-41, Code of Alabama 1975, after there shall have been taken therefrom the amount necessary for the purposes specified in Section 40-25-23(1)b 1, Code of Alabama 1975, as in existence prior to the effective date hereof; and (b) any other revenues or receipts dedicated to the payment of bonds of the Authority, issued by it under the provisions of this act or any subsequent authorizing legislation. All moneys hereby appropriated and pledged shall constitute a sinking fund for the purpose of paying the principal of and the interest on the Bonds herein authorized.

Section 7. Disbursements of Funds. Out of the revenues appropriated and pledged in Section 6 hereof, the state treasurer is hereby authorized and directed to pay the principal of and interest on the Bonds issued by the Authority under the provisions of this Act, as the said principal and interest shall respectively mature, and the state treasurer is further authorized and directed to set up and maintain appropriate records pertaining thereto.

Section 8. Severability. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. Effective Date. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 30, 1991

Time: 3:00 P.M.

Act No. 91-636

S. 3 — Senator Ellis

AN ACT

Relating to Shelby County; to provide an additional county salary to the probate judge for the remainder of the current term of office, which ends in January 1995, for loss of compensation as a result of being relieved of his duties as chairman

of the Shelby County commission by a United States federal court order and relinquish use of automobile and expense account now receiving.

Be It Enacted by the Legislature of Alabama:

Section 1. Since the probate judge of Shelby County has been relieved of his duties and compensation as chairman of the county commission by a United States federal court order on May 23, 1990, he shall receive for the remainder of his term of office an additional annual salary of \$19,000.00, payable in equal monthly installments from the county general fund. By accepting this additional salary, he will relinquish, and not continue to receive, an expense allowance as provided for in Act No. 83-777, S. 562, 1983 Regular Session, which act provides for creating a license-issuing division within the probate judge's office in order to set up a one-stop tag purchase within Shelby County. Any additional compensation provided for in this act shall terminate at the expiration of the current term of office of the probate judge.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective on the first day of the month immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 31, 1991

Time: 5:00 P.M.

Act No. 91-637

H. 194 — Rep. Rogers (J)

AN ACT

To amend Section 14-9-41 of the Code of Alabama 1975, which relates to computation of incentive time deduction(s) so as to allow an inmate who has been sentenced to a term of 15 years or less in the state penitentiary to earn correctional incentive time in accordance with the other provisions of this section, and to make this section retroactive.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 14-9-41 of the Code of Alabama 1975, herein amended to read as follows:

“Section 14-9-41.

(a) Each prisoner who shall hereafter be convicted of any offense against the laws of the state of Alabama and is confined, in execution of the judgment or sentence upon any conviction, in the penitentiary or at hard labor for the county or in any municipal

jail for a definite or indeterminate term, other than for life, whose record of conduct shows that he has faithfully observed the rules for a period of time to be specified by this article may be entitled to earn a deduction from the term of his sentence as follows:

(1) Seventy-five days for each 30 days actually served while the prisoner is classified as a Class I prisoner.

(2) Forty days for each 30 days actually served while the prisoner is a Class II prisoner.

(3) Twenty days for each 30 days actually served while the prisoner is a Class III prisoner.

(4) No good time shall accrue during the period the prisoner is classified as a Class IV prisoner.

(b) Within 90 days after May 19, 1980, the commissioner of the department of corrections shall establish and publish in appropriate directives certain criteria not in conflict with this article for Class I, II, III, and IV prisoner classifications. Such classifications shall encompass consideration of the prisoner's behavior, discipline, and work practices and job responsibilities.

(c)(1) Class I is set aside for those prisoners who are considered to be trustworthy in every respect and who, by virtue of their work habits, conduct and attitude of cooperation have proven their trustworthiness. An example of a Class I inmate would be one who could work without constant supervision by a security officer.

(2) Class II is that category of prisoners whose jobs will be under the supervision of a correctional employee at all times. Any inmate shall remain in this classification for a minimum period of six months before being eligible for Class I.

(3) Class III is for prisoners with special assignments. They may not receive any of the privileges of Class I and Class II inmates. Any inmate shall remain in this classification for a minimum period of three months before being eligible for Class II.

(4) Class IV is for prisoners not yet classified and for those who are able to work and refuse, or who commit disciplinary infractions of such a nature which do not warrant a higher classification, or inmates who do not abide by the rules of the institution. Inmates who are classified in this earning class receive no correctional incentive time. This class is generally referred to as "flat time" or "day-for-day". Any inmate shall remain in this classification for a minimum period of 30 days before being eligible for Class III.

(5) No inmate may reach any class without first having gone through and meeting the requirements of all lower classifications.

(d) As a prisoner gains a higher classification status he shall not be granted retroactive incentive credit based on the higher classification he has reached, but shall be granted incentive credit based solely on the classification in which he was serving at the time the incentive credit was earned. Nothing in this article shall be interpreted as authorizing an inmate incentive credits based on the highest classification he attains for any period of time in which he was serving in a lower classification or from the date of his sentence.

(e) Provided, however, no person may receive the benefits of correctional incentive time if he or she has been convicted of a Class A felony or has been sentenced to life, or death, or who has received a sentence for more than 15 years in the state penitentiary or in the county jail at hard labor or in any municipal jail. No person may be placed in Class I if he or she has been convicted of an assault where the victims of such assault suffered the permanent loss or use or permanent partial loss or use of any bodily organ or appendage. No person may be placed in Class I if he or she has been convicted of a crime involving the perpetration of sexual abuse upon the person of a child under the age of 17 years.

The court sentencing a person shall note upon the transcript to accompany such prisoner the fact that he or she has been sentenced as a result of a crime that forbids his or her being classified as a Class I prisoner.

(f)(1) If during the term of imprisonment a prisoner commits an offense or violates a rule of the department of corrections, all or any part of his correctional incentive time accrued pursuant to this section shall be forfeited.

(2) The commissioner of the department of corrections shall have the power to restore to any prisoner who has heretofore, or who may hereafter, forfeit the deductions allowed him or her for good behavior, work habits and cooperation, or good conduct, by violating any existing law or prison rule or regulation such portion of his deduction for good conduct or good behavior as may be proper in his judgment, upon recommendation and evidence submitted to him by the warden in charge.

(g)(1) When a prisoner is serving two or more terms of imprisonment and the sentences run consecutively, then all such sentences shall be combined for the purpose of computing deductions for correctional incentive time and release date; however, the actual deduction from sentence for correctional incentive time provided by this section shall apply only to sentences to be served.

(2) When a prisoner is serving two or more sentences which run concurrently, the sentence which results in the longer period of incarceration yet remaining shall be considered the term to which

such prisoner is sentenced for the purpose of computing his release date and correctional incentive time under the provisions of this article. When computing the deductions allowed in this section on indeterminate sentences the maximum sentence shall be the basis for the computation. The provisions of this section shall be administered by the chief administrative officer of the penal institution as it applies to prisoners in any state penal institution, by the sheriff of the county as it applies to prisoners in any county jail and by the chief of police as it applies to prisoners in any municipal jail.

(h) Deductions for good behavior, work habits and cooperation, or good conduct shall be interpreted to give authorized good time retroactively, to those offenders convicted of crimes committed after May 19, 1980, except those convicted of crimes of the unlawful sale or distribution of controlled substances as enumerated in Title 13A and in former Chapter 2 of Title 20, of the Code of Alabama, 1975, and for any sexual offenses as enumerated in Chapter 6, Title 13A, Code of Alabama, 1975, provided however that the commissioner of the department of corrections shall have the prison records of all inmates, who become eligible under this revised article, reviewed and shall disqualify any such inmate from being awarded good time under this article at his discretion."

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective 90 days after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 31, 1991

Time: 5:01 P.M.

Act No. 91-638

H. 548 — Reps. Holley, Harper, Layson, Drake, Butler, Richardson, Smith (R), Biddle, Rich, McKee, McMillan, Knight, Hill, Payne, Morton, Poole, Turner, Petelos, Gaines, Sanderson, Haney, Hall, Cullins, White, Willis, Mikell, Carothers, Laird, Hammett, Flowers, Williams, Kennedy, Clark (W), Mathis, Starkey, Carns, Sanderford, McDaniel,

Hamilton, Cosby, Blakeney,
 Powell, Harvey, Venable,
 Penry, Hooper, Crow,
 Beasley, Newton (C), Melton,
 Lindsey, Goodwin, Turnham,
 Letson, Bowling, Haynes,
 Warren, Johnson, Dolbare,
 Bryant, Black (L), Cagle,
 Parker (T), Kvalheim,
 Gaston, Rockhold,
 Higginbotham, Gullatt,
 Hogan, Curry, Ford, Morrow,
 Millican, Spratt, Newman,
 Escott-Russell, McClain,
 Zoghby, Burke, Hawkins,
 Parker (P), Freeman, Clay,
 Rogers (F)

AN ACT

To amend Act No. 90-764 passed in the 1990 Regular Session which makes appropriations for ordinary expenses of the executive, legislative and judicial departments of the State by increasing the appropriation from the "Earmarked Funds" to the Department of Revenue and providing for a transfer of funds from the Department of Revenue to the Departmental Emergency Fund for the fiscal year ending September 30, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2C, Item 113, of Act 90-764 is hereby amended to read as follows:

"113. REVENUE, DEPARTMENT OF:

(a) State Revenue Administration Program	62,894,368
(b) Transfer to State General Fund.....	800,000

Any other law to the contrary notwithstanding, it is the intent of the Legislature that the Department of Revenue transfer \$800,000 to the State General Fund from the balance in the Rebuilt Salvage Motor Vehicle Fund, Revenue Fund #301918.

(c) Transfer to Departmental Emergency Fund.....	1,000,000
--	-----------

SOURCE OF FUNDS:

(1) State General Fund- Transfer.....	250,000
As provided in Section 40-7- 70, Code of Alabama 1975, to maintain a program for the equalization of ad val- orem tax assessments.	
(2) State General Fund-Board of Equalization.....	124,442
(3) Transfer from the gross proceeds of Cigarette Tax Collections.....	1,203,595
As provided in Section 40-25- 27, Code of Alabama 1975.	
(4) Transfer from the gross proceeds of Financial In- stitution Excise Tax Col- lections	323,751
(5) Transfer from the pro- ceeds of the Forest Sev- erance Tax Collections.....	119,300
(6) Transfer from the gross proceeds of Gasoline Tax Collections.....	5,830,322
(7) Transfer from the Income Tax Collections.....	17,811,879
(8) Transfer from the gross proceeds of Motor Fuel Tax Collections.....	1,182,122
(9) Transfer from the gross proceeds of Motor Vehicle License Collections	2,563,026
(10) Transfer from the Pen- sion Fund as part of the cost of collections of the 1- Mill Ad Valorem Tax	784,303
(11) Transfer from the Public School Fund as part of the cost of collections of the 3- Mill Ad Valorem Tax	1,788,017

(12) Transfer from the gross proceeds of Sales Tax Collections	15,713,567
(13) Transfer from the gross proceeds of the Tobacco Tax Collections.....	47,336
(14) Transfer from the gross proceeds of Use Tax Collections.....	1,719,660
(15) Transfer from the gross proceeds of the Utility Tax Collections.....	3,817,965
(16) Local Funds.....	6,900,000
(17) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags	2,365,083
(18) Inspection fees for restored vehicles	2,050,000
As provided in Section 32-8-87, Code of Alabama 1975.	
(19) Revenue Administration Fund-Transfer from Abandoned Property Trust Fund as provided in Section 35-12-39, Code of Alabama 1975. The amounts hereinabove appropriated for the cost of maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment of the cost of operating said Department or collections of the taxes as authorized by law. Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed	2,050,000

the Department of Revenue by local Acts of the Legislature as a charge for the collection of taxes or licenses.

Total Department of Revenue	<u>374,442</u>	<u>64,319,926</u>	<u>64,694,368"</u>
-----------------------------------	----------------	-------------------	--------------------

Section 2. Section 2D, Item 12, of Act 90-764 is hereby amended to read as follows:

"12. EMERGENCY FUND,
DEPARTMENTAL:

2,500,000

(a) Special Services Program ...

SOURCE OF FUNDS:

1,500,000

(1) State General Fund

(2) Transfer from Department
of Revenue

1,000,000

This is the appropriation contemplated in section 41-4-94, Code of Alabama 1975, and shall be the only amount appropriated and the total amount expended under the provisions of said section. Of the above appropriation, an amount of \$1,000,000 shall be transferred to the Department of Agriculture and Industries for the Boll Weevil Eradication Program.

Total Departmental Emergency Fund	<u>1,500,000</u>	<u>1,000,000</u>	<u>2,500,000"</u>
--	------------------	------------------	-------------------

Section 3. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved July 31, 1991

Time: 5:02 P.M.

Black (M), Blakeney, Bowling,
 Box, Bryant, Bugg, Burke,
 Buskey (JE), Buskey (JL), Butler,
 Cagle, Campbell, Carns,
 Carothers, Carter, Clark (W),
 Clay, Cosby, Crow, Cullins, Curry,
 Dolbare, Drake, Escott-Russell,
 Flowers, Ford, Freeman, Fuller,
 Gaines, Gaston, Goodwin,
 Grayson, Gullatt, Hall, Hamilton,
 Hammett, Haney, Harper,
 Harvey, Hawkins, Haynes,
 Higginbotham, Hill, Hogan,
 Holladay, Holley, Holmes, Hooper,
 Johnson, Kennedy, Knight,
 Kvalheim, Laird, Layson, Letson,
 Lindsey, Mathis, McClain,
 McDaniel, McDowell, McKee,
 McMillan, Melton, Mikell,
 Millican, Morrow, Morton,
 Newman, Newton (C), Newton (D),
 Parker (P), Parker (T), Payne,
 Penry, Perdue, Petelos, Poole,
 Powell, Rich, Richardson,
 Rockhold, Rogers (F), Rogers (J),
 Sanderford, Sanderson, Smith (C),
 Smith (R), Spratt, Starkey,
 Thomas, Turner, Turnham,
 Venable, Walker, Warren, White,
 Williams, Willis, Zoghby

HOUSE JOINT RESOLUTION

COMMENDING DOT HARDIN FOR DISTINGUISHED SERVICE TO THE LEGISLATURE AND THE STATE OF ALABAMA.

WHEREAS, having learned of the forthcoming retirement of Dot Hardin, the Legislature of Alabama desires to acknowledge with gratitude her loyal and dedicated service of the past 42 years; and

WHEREAS, Dot Hardin began working as a session employee with the Alabama House of Representatives during the first administration of Governor James E. Folsom and, not only has she served during each succeeding administration and under all intervening House Clerks and Speakers since 1949, but has been a part of the changing process from the time records were kept by hand to the computerized system in use today; and

WHEREAS, Dot Hardin, who was named Supervisor of the Journal Proofing Department in 1971, holds seniority among all

employees of that department and, under her capable leadership, the proficiency of the proofing staff has remained consistently superior through the years, thereby greatly contributing to the efficiency of the legislative process; and

WHEREAS, Dot Hardin, whose considerable knowledge and expertise have been of inordinate value to the orderly procedure of House affairs, has earned the highest regard of her many co-workers over the years, as well as that of the House leadership and the several Clerks under whom she has served; and

WHEREAS, Dot Hardin has resided in Montgomery since 1945, having moved to the Capital City following the release from military service of her husband, Taylor Hardin, whom she met in Panama and subsequently married in San Francisco; together they have shared the joy of raising three daughters, Pat, Janet and Pegge, and are the proud grandparents of Taylor and Anna Lander, and Jarrett and Patricia Shalhoop; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the House of Representatives, the Legislature and the State, we hereby most highly commend Dot Hardin of Montgomery, Alabama, whose friendship we value and to whom a copy of this resolution shall be presented.

Approved August 8, 1991

Time: 9:30 P.M.

Act No. 91-640

S. 343 — Senator Bennett

AN ACT

To create a new circuit judgeship in the tenth judicial circuit, Bessemer cut-off division; to create one additional circuit judgeship in the fifteenth judicial circuit; to create one additional new circuit judgeship in the nineteenth judicial circuit which shall be designated judgeship Number 3, and to provide for the election, authority and compensation of such judges.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created an additional judgeship for the tenth judicial circuit, which shall be designated Judgeship Number 25 and which shall serve the Bessemer cut-off division. Also, there is hereby created one additional circuit judgeship in the fifteenth judicial circuit; one shall be a circuit court judgeship. There is hereby created an additional circuit judgeship for the

nineteenth judicial circuit which shall be designated judgeship Number 3. The judge occupying judgeship Number 3 shall be a resident of Chilton County. The judgeships hereby created shall be filled at the general election in 1992 and the persons so elected shall assume office in January 1993. Every six years thereafter, judges shall be elected to fill such judgeship at the general election.

Section 2. In the nineteenth judicial circuit effective upon passage of this act, the judge occupying judgeship Number 1 shall be a resident of Elmore County and the judge occupying judgeship Number 2 shall be a resident of Autauga County.

Section 3. The judges elected as provided in Section 1 of this act shall have and shall exercise all the jurisdiction, power, right and authority reserved to circuit judges; shall possess all of the qualifications required of circuit judges; shall perform all of the duties required of circuit judges and shall be subject to all of the pains and penalties of such judicial offices.

Section 4. The compensation of such judges shall be the same as and paid under the same circumstances as that of the other circuit judges in their circuits, including the payment of any county salary supplement or expense allowance.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 9:25 A.M.

Act No. 91-641

S. 412 — Senator Langford

AN ACT

To amend Section 12-18-87 of the Code of Alabama 1975, relating to probate judges' retirement benefits, so as to provide further for said probate judges' retirement benefits.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-18-87 of the Code of Alabama 1975, is hereby amended to read as follows:

“§12-18-87.

“(a) Judges’ retirement benefits. — The annual retirement benefit payable to a probate judge retiring pursuant to subdivisions (2), (3), (4), and (5) of section 12-18-84 shall be 75 percent of the base sum or salary upon which such judge is paying the percentage as provided in subsection (a) or subsection (b) of section 12-18-82 immediately prior to retirement. Such retirement benefit shall be payable monthly from the state treasury for the life of the beneficiary.

“(b) Spouses’ benefits. — After the death of any probate judge who has held office for a minimum of five years, his or her spouse shall receive a yearly benefit from the state treasury equivalent to the greater of \$480.00 per year, multiplied by the number of years of service, not to exceed 10 years, or three percent of the base sum or salary upon which such probate judge was paying the percentage as provided in subsection (a) or subsection (b) of section 12-18-82 immediately prior to retirement, multiplied by the number of years service, not to exceed 10 years, payable monthly for the remainder of such spouse’s life or until his or her remarriage.

“(c) Judges’ disability benefits. — Any probate judge retiring pursuant to subdivision (1) of section 12-18-84, who has served for 10 years or more shall be entitled to a disability benefit allowance payable monthly from the judicial retirement fund equal to 75 percent of the base sum or salary specified in subsection (a) or (b) of section 12-18-82 applicable at the time of retirement. If such disabled probate judge has served less than 10 years, he shall be entitled to receive from the state treasury a monthly disability benefit that is equal to 25 percent of such base sum or salary plus 10 percent of such base sum or salary for each year of service in excess of five years; provided, however, that in no event shall such justice or judge receive less than 30 percent of the annual salary being paid to a full-time probate judge, as the case may be, from the state treasury.

“(d) Minimum age for receipt of retirement benefits, etc. — Any provision of this article to the contrary notwithstanding, a probate judge shall not be eligible to retire on service or otherwise receive service retirement benefits on account of his participation in said fund unless such member shall have attained 60 years of age; provided, however, that nothing in this subsection shall be construed as limiting, altering or amending existing provisions of law relating to eligibility for entitlement to disability benefits.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 9:20 A.M.

Act No. 91-642

S. 558 — Senator Bolling

AN ACT

To amend Sections 24-5-31, 24-5-32 and 24-5-33 of the Code of Alabama 1975, relating to anchoring of mobile homes and manufactured buildings so as to provide further for anchoring such structures; and to provide further for penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 24-5-31 of the Code of Alabama 1975, is hereby amended to read as follows:

“§24-5-31.

“When used in this article, unless the context plainly indicates otherwise, the following words and phrases shall have the meanings respectively ascribed to them in this section:

“(1) ANSI. The American National Standards Institute or its successor.

“(2) GROUND ANCHOR. Any device at the mobile home stand designed for the purpose of securing a mobile home to the ground.

“(3) MARSHAL. The Alabama state fire marshal.

“(4) NFPA. The National Fire Protection Association or its successor.

“(5) TIEDOWN. Any device designed to anchor a mobile home to ground anchors.

“(6) COMMISSION. The Alabama manufactured housing commission.

“(7) INSTALL or INSTALLATION. Siting, placing or anchoring a manufactured home or manufactured building, either one or more units, to land, upon footings, piers or foundations, or connecting the home or building to public or private utilities. Public or private utilities shall not be classified as installers under this section.

“(8) INSTALLER. Any person who sites, anchors, places, connects, sets up or installs a manufactured home or manufactured building upon land, footings, piers or foundations.

“(9) MANUFACTURED BUILDING. A closed structure, building assembly or systems of subassemblies which may include structural, electrical, plumbing, heating, ventilating, utility service lines, footings, foundations, porches or other service systems manufactured in manufacturing facilities, for installation or

erection, with or without other specified components, as a finished building or as a part of a finished building, which shall include, but not be limited to, residential dwelling units, commercial, institutional, storage and industrial structures. 'Mobile homes' or 'manufactured homes' are excluded. 'Manufactured building' may also mean, at the option of the manufacturer, any building of open construction made or assembled in manufacturing facilities away from the building site, for installation, or assembly and installation on the building site.

"(10) MANUFACTURED HOME. As defined by the United States Department of Housing and Urban Development."

Section 2. Section 24 5 32 of the Code of Alabama 1975, is hereby amended to read as follows:

"§24-5-32.

"(a) After January 1, 1976, it shall be unlawful for any person to install, allow to be installed, occupy or allow to be occupied any new or used manufactured home or manufactured building unless the home or building is tied down to properly installed ground anchors so as to be able to resist wind loads as specified in the rules and regulations adopted by the commission. The counties of Mobile and Baldwin are designated as hurricane wind zones. All installers of manufactured homes and manufactured buildings must be certified by the commission to install such structures.

"(b) Any manufactured home or manufactured building sold after January 1, 1976, shall comply with the requirements of subsection (a) of this section immediately upon location on the new site. Any existing manufactured home or manufactured building relocated to a new site after January 1, 1976, shall comply with the code requirements of subsection (a) of this section immediately upon location on the new site.

"(c) The commission shall promulgate rules and regulations setting forth uniform standards for the manufacture and installation of ground anchors and blocking to be compatible with ANSI A 119.1/NFPA 501B, in order to accomplish the intent of this section. Local building inspectors shall, when required by local jurisdiction, enforce rules and regulations promulgated by the commission to accomplish the intent of this section.

"(d) Prior to adoption of the initial rules and regulations and in the event it becomes necessary to make changes in or additions to the rules and regulations adopted in subsection (a) of this section, the commission, at least 30 days prior to adopting or promulgating any such rules and regulations or changes or additions,

shall mail to all manufacturers and service organizations doing business in Alabama and to the Alabama Manufactured Housing Institute a notice which shall include a copy of the rules and regulations or additions and changes thereto, and a designation of the time and place that the commission will hear and consider any objections to the proposed rules and regulations or additions and changes thereto. The commission shall afford any interested party an opportunity to be heard orally or in writing with respect to the proposed rules and regulations or additions and changes thereto. Sixty days after date of notice and hearing, any rules and regulations or changes and additions thereto shall become effective.

“(e) This section shall not apply to any mobile home which is in transit between sites.

“(f) The commission shall establish by rule a schedule of fees to pay for the administration of this act.”

Section 3. Section 24-5-33 of the Code of Alabama 1975, is hereby amended to read as follows:

“§24-5-33.

“(a) It is a misdemeanor for any person to install, allow to be installed, occupy, or allow to be occupied, any manufactured home or manufactured building in this state which is not in accordance with the uniform standards and the rules and regulations adopted and set forth by the commission pursuant to this article.

“(b) The commission is authorized to suspend the tag issued under section 40-12-255 of any person violating either subsection (a) or (b) of section 24-5-32, and shall be authorized to levy a civil penalty up to \$500.00 against any person found in violation of subsection (a) of section 24-5-32. The commission is moreover authorized to levy a civil penalty up to \$500.00 against any installer or installation personnel violating either subsection (a) or (b) of Section 24-5-32 or the rules and regulations adopted and set forth by the commission pursuant to this article. Persons subjected to the operation of this subsection shall be given a hearing by the commission on application therefor, and shall be notified of the availability of a hearing by the commission on imposition of a penalty.

“(c) In addition to other penalties provided by law, the commission and district attorneys are authorized to apply to the circuit courts within their respective jurisdictions, and such courts shall have jurisdiction, upon hearing and for cause shown, to grant appropriate additional relief to prevent or restrain violations of this article.”

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:30 P.M.

Act No. 91-643

S. 580 — Senator Ghee

AN ACT

Relating to Calhoun County; to relieve the judge of probate from charging a fee when celebrating the rites of matrimony; and to provide that any such fee when charged by the judge of probate may be retained by him.

Be It Enacted by the Legislature of Alabama:

Section 1. The judge of probate of Calhoun County is hereby authorized, at his discretion, to charge for celebrating the rites of matrimony. Any such fee, when charged by the judge of probate, may be retained by the judge of probate.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:31 P.M.

Act No. 91-644

S. 695 — Senator Wilson

AN ACT

Relating to supernumerary district attorneys of the fourteenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Any elected district attorney of the fourteenth (14th) judicial circuit who elects to become a supernumerary district

attorney after the effective date of this act shall be entitled to a salary supplement equal to the salary supplement which is payable to a supernumerary district attorney of the tenth (10th) judicial circuit pursuant to the provisions of Act No. 82-347, S. 508, Regular Session 1982 (Acts 1982, p. 501).

Section 2. This act shall apply only to persons who elect to become a supernumerary district attorney after the passage of this act and said compensation is supplemental to compensation paid a supernumerary district attorney by the State of Alabama. This act shall not increase the salary of the elected district attorney of the fourteenth (14th) judicial circuit.

Section 3. Said salary supplement shall be paid in 12 equal monthly installments by the office of prosecution services from funds appropriated by the State of Alabama to the office of district attorney of the fourteenth (14th) judicial circuit and/or from funds the district attorney of said circuit is hereinafter directed to deposit with the office of prosecution services.

Section 4. (a) The district attorney of the fourteenth (14th) judicial circuit shall cause to be deposited with the office of prosecution services sufficient funds to accomplish all provisions of this act. Funds so deposited shall include but shall not be limited to any funds made available to the district attorney of the fourteenth (14th) judicial circuit for law enforcement purposes.

(b) The district attorney of the fourteenth (14th) judicial circuit may deposit with the office of prosecution services funds for future payments pursuant to this act.

(c) All funds deposited by the district attorney of the fourteenth (14th) judicial circuit with the office of prosecution services pursuant to the provisions of this act shall not be subject to transfer or withdrawal by any other party and shall be used solely to accomplish the provisions of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:32 P.M.

Act No. 91-645

S. 703 — Senator Ellis

AN ACT

Relating to Shelby County; repealing Act No. 1886, H. 2579, 1971 Regular Session, which provides for an assessment on forest lands for fire protection.

Be It Enacted by the Legislature of Alabama:

Section 1. In Shelby County, Act No. 1886, H. 2579, 1971 Regular Session, is hereby repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:33 P.M.

Act No. 91-646

S. 707 — Senator Ellis

AN ACT

Relating to the City of Alabaster in Shelby County; authorizing an additional ad valorem tax and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. In Shelby County, pursuant to subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901, and a resolution heretofore adopted by the City of Alabaster governing body after a public hearing, the governing body is hereby authorized to levy, in addition to any and all other taxes heretofore levied, an additional ad valorem tax on the taxable properties in the city. The city governing body may impose an additional ad valorem tax in the amount of seven (7) mills on each dollar of taxable property in the city. The revenues from said tax shall be paid to the general fund of the city.

Section 2. The increase in the rate of said tax as provided herein is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373 of the Alabama Constitution of 1901.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:34 P.M.

Act No. 91-647

S. 708 — Senator Windom

AN ACT

Relating to Mobile County; to provide for the temporary release of certain prisoners in the county jail for the purpose of working at gainful employment or for other rehabilitative purposes; to provide for the payment by persons so released to the county of a portion of their gross earnings and for the utilization of the funds derived therefrom; to provide for the Mobile Pre-Trial Release and Jail Diversion Fund; to establish penalties for failure to appear or for violation of release conditions; to provide for the forfeiture of security deposited to insure the attendance of the defendant; and to provide for the administration and supervision of activities hereunder by the Presiding Circuit Judge of the Thirteenth Judicial Circuit; and to authorize appropriations to the fund by the Mobile County Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person who has been committed to the Mobile County Jail under a criminal sentence may be released therefrom at any time by order of the circuit court of the Thirteenth Judicial Circuit or district court. Such release shall be for the purpose of obtaining and working at gainful employment or for such other purpose as the court may deem conducive to his rehabilitation and shall be for such time or intervals of time and under such terms and conditions as the court may order. Unless otherwise provided by the court, any part of a day spent outside of jail under such a release order shall be counted as a full day toward the serving of the sentence. If a person violates the terms and conditions imposed by the court for his conduct, custody and employment, he shall be returned to the sentencing court. The sentencing court may then require that the balance of the person's sentence be spent in actual confinement and may cancel any earned reduction of his term.

Section 2. Any person who has been sentenced to the Mobile County Jail and who has been released pursuant to the provisions of Section 1 of this act, may at the time of sentencing or at any time while part of his sentence remains unserved, be required by the court to report to the jail to be incarcerated during weekends or at such times or intervals of time as the court may direct. Any time so spent in jail shall be deducted from the term of the sentence. Any

part of a day spent in the institution shall count as a full day toward the serving of the sentence. In no event shall the number of days of confinement exceed the number of days in the original sentence.

Section 3. Any person released under Section 1 of this act or required to be confined under Section 2 of this act, who willfully fails to report for confinement as ordered, shall be deemed to have escaped from the institution to which he has been sentenced and, upon conviction, shall be subject to the punishment imposed for escape from confinement.

Section 4. Any person released from jail pursuant to Section 1 of this act shall pay to Mobile County an amount not greater than a sum equal to twenty-five percent (25%) of his gross earnings earned while so released. The court having jurisdiction of the case, as a condition to releasing a prisoner pursuant to the provisions of this act, may require that the prisoner establish a payroll deduction plan for the payment of any monies due under this act. All monies so collected, whether by payroll deduction or otherwise, shall be collected by the Mobile County Commission and deposited to a separate fund to be known as the "Mobile County Pre-Trial Release and Jail Diversion Fund."

Section 5. In any case in which the court having jurisdiction of the case determines that the collection and payment of monies provided for in Section 4 of this act will impose a definite and significant financial hardship on the dependents of the prisoner involved, the court may, in its discretion, waive the collection and payment of the monies. Provided, however, in making such determination, the court shall consider that the intent of this act is to not only promote the rehabilitation of offenders, but, insofar as possible, to make the implementation of the provisions of this act self-supporting.

Section 6. All monies collected pursuant to the provisions of this act shall be paid into the Mobile County Pre-Trial Release and Jail Diversion Fund and shall be expended for the implementation of this act, which shall include, but not be limited to:

(1) the payment of salaries and other expenses involved in making investigations and studies necessary to determine whether particular prisoners will be granted the benefits of this act;

(2) transportation of prisoners to and from their places of employment;

(3) providing security for the courts and the offices in which this act is administered;

(4) matching any federal or state grants or other funds which may be available in relation to the purposes of this act; and

(5) providing educational or vocational training and investigation and screening of prisoners who may become subject to the provisions of this act.

If at the end of any calendar year, there remains a surplus in the fund established pursuant to this act, such surplus shall be paid into the general fund of Mobile County, provided the presiding judge of the Thirteenth Judicial Circuit shall certify in writing to the probate judge that in his judgment such surplus, or any portion thereof, is in excess of the amount necessary to implement the provisions of this act.

Section 7. It is the intent of the legislature that the provisions of this act pertaining to pre-trial release shall be a guide to judicial officers in Mobile County, as defined herein, to insure that no person be needlessly detained in said county jail because of his personal economic circumstances so long as his release shall not be contrary to the public interest and also shall serve the purpose of assuring the defendant's presence at the trial.

Section 8. As used in this act, the term "judicial officer" means, unless otherwise indicated, any circuit judge in the Thirteenth Judicial Circuit and any district court judge in Mobile County.

Section 9. (a) Any person charged with an offense may, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the judicial officer determines, in the exercise of his discretion, that such a release will not reasonably assure the required appearance of such person. When such a determination is made, the judicial officer shall, either in lieu of, or in addition to, the above method of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

(1) Place the person in the custody of a designated person who agrees to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of an appearance bond in specified amount and the deposit with the Clerk of the Court in cash or other security as directed, of a sum not to exceed ten percent (10%) of the amount of the bond, eighty percent (80%) of such deposit shall be returned upon the performance of the conditions of release;

(4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or

(5) Impose any additional condition deemed reasonably necessary to assure the required appearance which may include a condition requiring the person return to custody after specified hours.

(b) In determining which conditions of release will reasonably assure the required appearance of a person, the judicial officer shall, on the basis of available information as presented by the state or the defendant, take into account such matters as:

- (1) the nature and circumstances of the offense charged;
- (2) the weight of the evidence against the person;
- (3) his family ties, employment and financial resources;
- (4) his character and mental condition, including past conduct;
- (5) length of residence in the community;
- (6) the record of convictions; and

(7) any record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

The judicial officer shall, in making such factual determinations, recognize that this act has two purposes, one of which is to assure the presence of the defendant at trial and the other of which is to assure that all persons, regardless of their financial or social status, shall not needlessly be detained pending their appearance to answer charges, or pending appeal, when the detention serves neither the ends of justice nor the public interest.

(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of any conditions imposed, shall inform such person of the penalties applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation. The judicial officer shall also notify such person of the penalties provided in Section 4.

(d) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release.

(e) The judicial officer shall determine the conditions of release as herein provided when the defendant is brought before him for preliminary examination or at such other times he may direct.

(f) Any other provision of this act to the contrary, no warrant magistrate or assistant warrant magistrate shall have the authority

to order that any person be released where that person is accused of a capital crime or of a crime where the defendant, if convicted, could receive a sentence of more than twenty years in prison.

Section 10. (a) Whoever, having been released pursuant to this act, willfully fails to appear before any court or judicial officer as required, shall incur a forfeiture of any security which was given or was pledged for his release, and, in addition shall be guilty of a Class B misdemeanor and shall be punished as provided by law.

(b) Failure to appear after notice of the appearance date shall be prima facie evidence that the failure to appear was willful. Whether the person was warned when released of the penalties for failure to appear, shall be a factor in determining whether the failure to appear was willful. The district attorney or any assistant district attorney, shall initiate prosecution for violation of this section by making affidavit for a warrant to be issued by any officer authorized to issue warrants. The person who failed to appear shall be arrested and shall be brought before a judicial officer in the county as are other misdemeanor prosecutions.

(c) A defendant may be convicted under this section, even if he has not received actual notice of the appearance date, if: (1) reasonable efforts to notify the defendant have been made; and (2) the defendant, by his own actions, has frustrated the receipt of actual notice.

Section 11. (a) A person who has been conditionally released pursuant to this act and who has violated a condition of release, shall be subject to revocation of the release and, in addition, may be prosecuted for contempt of court.

(b) Proceedings for revocation of release may be initiated upon notice to the district attorney by the warrant magistrate, assistant warrant magistrate, or any other person responsible for administering the provisions of this act. A warrant for the arrest of a person charged with violating a condition of release may be issued by an officer authorized to issue warrants, upon the affidavit of the district attorney or any assistant district attorney, or upon the affidavit of any person responsible for administering this act. The person arrested under such a warrant shall be brought before a judicial officer. No order of revocation shall be entered unless, after the hearing, the judicial officer finds that there is clear and convincing evidence that the person has violated a condition of his release due to inattention, negligence, or by act of will.

(c) Contempt sanctions may be imposed if, upon a hearing and in accordance with procedures applicable to criminal contempt, it

is established that the person violated a condition of his release. The contempt proceedings shall be expedited and heard by the court without a jury. A person found guilty of contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than \$1,000.00, or both.

Section 12. (a) A person who has been conditionally released pursuant to this act and as to whom there is probable cause to believe has committed a felony or misdemeanor while released, shall be subject to the revocation of his release.

(b) Proceedings for revocation of release for the grounds stated in this section, may be initiated by any person responsible for administering this act after notice to the district attorney. After the district attorney has received such notice, a warrant for the arrest of a person who is charged with violating the conditions of release under this section, may be issued by any officer authorized to issue warrants upon the affidavit of the district attorney or any assistant district attorney, or upon the affidavit of any person responsible for administering this act. The person arrested under such warrant shall be brought before a judicial officer. No order of revocation shall be entered unless, after a hearing, the judicial officer finds by clear and convincing evidence that: (1) a state or federal magistrate, judge or judicial officer or grand jury has found probable cause to believe that the person has committed a felony or misdemeanor; and (2) such felony or misdemeanor was committed while the person was released under this act on the prior charge.

Section 13. All forfeitures of cash or other security deposited with the Clerk of any Court, and all deposits otherwise retained pursuant to the provisions of this act shall be paid over to the Mobile County Pre-Trial Release and Jail Diversion Fund hereby created, to be used to implement the provisions of this act.

Section 14. The presiding circuit judge of the Thirteenth Judicial Circuit shall have the duty to implement the provisions of this act and to generally superintend all administrative functions pursuant hereto. The presiding circuit judge shall have the power to employ and dismiss personnel employed to carry out the provisions of this act, except judicial officers, and to direct, supervise and fix salaries for such personnel, who shall be confidential employees of the court. Said employees shall have all powers of arrest granted to law enforcement officers of this state.

Section 15. The Mobile County Commission is hereby authorized to appropriate such funds as, in its discretion, may be necessary to implement the provisions of this act.

Section 16. The presiding circuit judge shall present to the county commission on a quarterly basis a full accounting of all receipts and expenditures of the Mobile County Pre-Trial Release and Jail Diversion Fund.

Section 17. Nothing in this act shall interfere with or prevent the exercise by any court of Alabama of its power to punish for contempt.

Section 18. The procedures prescribed in this act shall be cumulative and in addition to all other bail and release procedures provided by law.

Section 19. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 20. All laws or parts of laws which conflict with this act are hereby repealed.

Section 21. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:35 P.M.

Act No. 91-648

S. 718 — Senator Ellis

AN ACT

To provide that the Shelby County Commission may provide office space for a Constituency Office to assist the members of the Shelby County Delegation to the Legislature in serving their constituents.

Be It Enacted by the Legislature of Alabama:

Section 1. The Shelby County Commission is hereby authorized and empowered to provide space for a Constituency Office to assist the members of the Shelby County Legislative Delegation in serving their county constituents.

Section 2. The Constituency Office may be operated on a full-time or a part-time basis, as may be feasible and appropriate.

Section 3. The Shelby County Commission is authorized and empowered to make all reasonable expenditures necessary to carry out the provisions of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:36 P.M.

Act No. 91-649

S. 721 — Senator Ellis

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Wilsonville, in Shelby County, to provide for a referendum election of the qualified electors who reside within the territory proposed to be brought within the municipal limits of Wilsonville.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Wilsonville in Shelby County is hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Begin at the SW corner of Stanley Sawyer lot located in the SW 1/4 of the SE 1/4 of Section 35, Township 20 South, Range 1 East; thence run in a westerly direction along the north right-of-way line of Highway #48 until said north right-of-way intersects the west line of Shelby County Highway #431; thence run in a southerly direction along the west line of Highway #431 to the intersection of the North line of the SW 1/4 of Section 3, Township 21 South, Range 1 East; thence run in a westerly direction to the NW corner of said SW 1/4; thence run in a southerly direction along the west line of said section 3, to the south right-of-way of State Highway #25; thence run in a easterly direction along south right-of-way line to the intersection of the west right-of-way of Shelby County #7; thence run in a southerly direction along the said right-of-way line to a point being 990 feet due south and at right angles to the north line of Section 10, Township 21 South, Range 1 East; thence run in an easterly direction crossing highway #7 along said line approximately 990 feet south of the north line of said Section 10 to the east line of the NW 1/4 of the NE 1/4 of said Section 10; thence run in a northerly direction along said east line to the southwest corner of the N 1/2 of the NE 1/4 of the NE 1/4 of said Section 10; thence run easterly along said half 1/4-1/4 section to the east line of said Section 10; thence run southerly along said east line to the intersection of the centerline of Shelby County

Highway #9; thence run in an northeasterly direction along the centerline of said highway #9 to the intersection with the centerline of Shelby County Highway #410 also being known as the Old Columbiana-Wilsonville Road; thence run in an easterly and southeasterly direction along the centerline of #410 to the intersection of the current Wilsonville City Limits; thence run in a northerly direction along the existing city limits to the intersection of the north right-of-way Shelby County #48; thence run westerly along the north right-of-way of said road #48 to the point of beginning.

Section 2. The substantive provisions of this act shall become operative only if the act is approved by the qualified electors who reside within the territory above described voting in a referendum election to be held on the day designated by the probate judge of Shelby County, not less than 20 nor more than 40 days from the date of the enactment of this legislation. The notice of the election shall be given by the probate judge of Shelby County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Section 11-41-6, Code of Alabama 1975, insofar as such provisions may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge, nor need a plat or map of the territory to be annexed be filed with the probate judge. The question shall be the adoption of Act. No.____, H.B. ____, of the 1991 Regular Session of the Alabama Legislature, which alters, rearranges and extends the corporate limits of the Town of Wilsonville in Shelby County. The Town of Wilsonville shall pay all of the costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes," the provisions of this act shall become operative immediately. If the majority are "No," this act shall have no further effect.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:37 P.M.

Act No. 91-650

S. 722 — Senator Ellis

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Calera in Shelby County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Calera in Shelby County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

CALERA NORFOLK-SOUTHERN RAILWAY ANNEX

Commence at the Southeast Corner of Section 20, Township 22 South, Range 2 West; thence run west along the Section 22 South section-line 1405 feet more or less to the Calera City Limits West line; thence run north along said City Limit line 80 feet more or less to centerline of the 100 foot Right-of-Way herein described, said point being the Point of Beginning; thence run southwesterly with the existing Railway Centerline 2855 feet more or less to the Point of a Curve to the right with a delta angle of approximately 22 degrees right, a chord length of approximately 1280 feet; run along the arc length of the centerline approximately 1287 feet to the Point of Tangency of the curve; thence continue to run westerly 1280 feet more or less to a point 400 feet past Shelby County Highway 75, said point being the Point of Termination of the 100 foot Right-of-Way herein described along the aforementioned centerline of a Norfolk-Southern Railway.

CALERA WEST ANNEX

Commence at the Southeast Corner of Section 20, Township 22 South, Range 2 West and run west 1400 feet to the existing West boundary of the Calera City Limits; thence run north along said City Limit boundary 810 feet to the Point of Beginning of the City Limits extension herein described; thence 88 degrees left more or less and run west 690 feet more or less to the East boundary of the existing Salem Cemetery; thence 90 degrees more or less left and run south 200 feet more or less to the Southwest Right-of-Way of Shelby County Highway 63; thence 143 degrees right more or less 520 feet more or less; thence 38 degrees right more or less 540 feet more or less along the West boundary of said Salem Cemetery to the Northwest corner of said cemetery; thence 84 degrees right more or less 493 feet more or less to the Northeast corner of said cemetery; thence 96 degrees right more or less 490 feet more or less along said boundary; thence 91 degrees right more or less 160 feet more or less along said cemetery boundary; thence 91 degrees left more or less 160 feet more or less along said cemetery boundary; thence 89 degrees left more or less leaving said cemetery boundary 690 feet more or less to the West boundary of the City Limits; thence 88 degrees right more or less 130 feet more or less along said City Limits to the Point of Beginning; located in the

Southeast Quarter of Section 20, Township 22 South, Range 2 West, Shelby County, Alabama.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:38 P.M.

Act No. 91-651

S. 725 — Senator Hale

AN ACT

Relating to Cullman County; to amend Section 1 of Act No. 1247, H. 1642, Regular Session 1971 (Acts 1971, p. 2147), relating to the issuance of pistol permits so as to increase the fee therefor.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 1247, H. 1642, Regular Session 1971 (Acts 1971, p. 2147), is hereby amended to read as follows:

“Section 1. The fee for the issuance of a permit in Cullman County to carry a pistol concealed on or about the person or in a vehicle as provided in Section 13A-11-75, Code of Alabama 1975, shall be fifteen dollars (\$15.00), which shall be collected by the sheriff.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:39 P.M.

Act No. 91-652

S. 535 — Senator Horn

AN ACT

To create a Permanent Joint Legislative Committee on Finances and Budgets, to meet during the interim periods between regular sessions of the Legislature; and to provide for its duties, powers, membership and compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created a Permanent Joint Legislative Committee on Finances and Budgets. The Committee shall meet during the interim periods between the regular sessions of the Legislature. It shall be the duty of the Committee to make a careful investigation and study of the financial condition of the state, hold budget hearings, inquire into ways and means of financing state government and its programs, and report its findings and recommendations as herein provided. The Secretary of the Senate, the Clerk of the House of Representatives and the Director of the Legislative Fiscal Office shall provide the Committee with such clerical and expert assistance from among their respective staffs as may be necessary. All departments, boards, bureaus, commissions, agencies, offices and institutions of the state shall and are hereby directed to cooperate fully with the Committee and its staff and shall furnish any and all information that may be requested by the Committee or its staff.

Section 2. The Committee shall be composed of the Lieutenant Governor, the members of the Senate Committee on Finance and Taxation and such other members of the Senate as appointed by the Lieutenant Governor. The Committee shall further be composed of the Speaker of the House of Representatives, the members of the House Committee on Ways and Means and such other members of the House of Representatives to be appointed by the Speaker of the House; provided, however, that the total Committee membership from the House of Representatives shall not exceed thirty-six (36) members. The Chairman of the Senate Committee on Finance and Taxation and the Chairman of the House Ways and Means Committee shall be Co-Chairmen. The said Co-Chairmen shall each appoint one Vice Co-Chairman and shall set the schedule and program for committee work. The said Co-Chairmen shall fix the days and hours of meetings and conduct hearings and examine witnesses who appear before the Committee. Each Co-Chairman may appoint sub-committees and invest them with such authority as may be deemed necessary to conduct the Committee's business and expedite its work. Members appointed to any sub-committee shall each be entitled to, and shall receive compensation as is provided for below for members of the Permanent Joint Legislative Committee on Finances and Budgets **for each day said members attend a sub-committee meeting that is not also a meeting day of the Committee.** Said sub-committee members shall not be paid for more than 30 additional calendar days in any single calendar year for work of said sub-committee.

Section 3. The Committee members shall be entitled to, and shall receive, the same daily legislative compensation, expense allowances, per diem and other compensation which they receive while in legislative session for each weekday, Monday through

Friday, during any week in which the Committee actually meets. It is provided however, that members must be present each scheduled meeting day during such week in order to receive the full five days compensation. Otherwise, Committee members will receive compensation only for those days in which Committee meetings are attended. Said Committee shall not be paid for more than 30 calendar days in any single interim period. The compensation of Committee employees shall be paid as provided in sections 29-1-9 and 29-1-10 of the Code of Alabama, 1975.

Section 4. The Committee shall report its findings and recommendations to the Legislature no later than the seventh legislative day of each regular session.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:40 P.M.

Act No. 91-653

S. 547 — Senator Hale

AN ACT

Relating to Madison County; to supplement the salaries of the judges of district court of said county, subject to the approval of the Madison County Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The salaries of each judge of the district court of Madison County shall be supplemented by the governing body of the county in an amount equal to thirty percent (30%) of the salary paid said judges by the state. This supplement shall be paid in the same manner and at the same frequency as supplements paid by the county to circuit court judges.

Section 2. The supplement herein provided shall be payable upon the approval of the Madison County Commission.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective the first day of the month of January, 1993, or upon its otherwise becoming a law, and upon its further approval by resolution of a majority vote of the Madison County commission.

Approved August 8, 1991

Time: 2:41 P.M.

Act No. 91-654

S. 96 — Senators Bailey, Parsons, and Hale

AN ACT

To amend Sections 7-1-201, 8-25-1 and 8-25-3, Code of Alabama 1975, relating to rental-purchase agreements and the Alabama Uniform Commercial Code, so as to exclude such agreements from coverage of the Alabama Uniform Commercial Code provisions relating to security interests and to authorize certain practices by rental-purchase merchants.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 7-1-201, 8-25-1 and 8-25-3, Code of Alabama 1975, are hereby amended to read as follows:

“§7-1-201.

“Subject to additional definitions contained in the subsequent articles of this title which are applicable to specific articles or parts thereof, and unless the context otherwise requires, in this title:

“(1) ‘Action’ in the sense of a judicial proceeding includes civil action, counterclaim, cross-claim, third party complaint and any other proceedings in which rights are determined.

“(2) ‘Aggrieved party’ means a party entitled to resort to a remedy.

“(3) ‘Agreement’ means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this title (sections 7-1-205 and 7-2-208). Whether an agreement has legal consequences is determined by the provisions of this title, if applicable; otherwise by the law of contracts (section 7-1-103). (Compare ‘contract.’)

“(4) ‘Bank’ means any person engaged in the business of banking.

“(5) ‘Bearer’ means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

“(6) ‘Bill of lading’ means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. ‘Airbill’ means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

“(7) ‘Branch’ includes a separately incorporated foreign branch of a bank.

“(8) ‘Burden of establishing’ a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

“(9) ‘Buyer in ordinary course of business’ means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or mine shall be deemed to be persons in the business of selling goods of that kind. ‘Buying’ may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

“(10) ‘Conspicuous’: A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is ‘conspicuous’ if it is in larger or other contrasting type or color. But in a telegram any stated term is ‘conspicuous.’ Whether a term or clause is ‘conspicuous’ or not is for decision by the court.

“(11) ‘Contract’ means the total legal obligation which results from the parties’ agreement as affected by this title and any other applicable rules of law. (Compare ‘agreement.’)

“(12) ‘Creditor’ includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor’s or assignor’s estate.

“(13) ‘Defendant’ includes a person in the position of defendant in a cross-action or counterclaim.

“(14) ‘Delivery’ with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

“(15) ‘Document of title’ includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee’s possession which are either identified or are fungible portions of an identified mass.

“(16) ‘Fault’ means wrongful act, omission or breach.

“(17) ‘Fungible’ with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this title to the extent that under a particular agreement or document unlike units are treated as equivalents.

“(18) ‘Genuine’ means free of forgery or counterfeiting.

“(19) ‘Good faith’ means honesty in fact in the conduct or transaction concerned.

“(20) ‘Holder’ means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

“(21) To ‘honor’ is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

“(22) ‘Insolvency proceedings’ includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

“(23) A person is ‘insolvent’ who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

“(24) ‘Money’ means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

“(25) A person has ‘notice’ of a fact when:

“(a) He has actual knowledge of it; or

“(b) He has received a notice or notification of it; or

“(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists. A person

'knows' or has 'knowledge' of a fact when he has actual knowledge of it. 'Discover' or 'learn' or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this title.

"(26) A person 'notifies' or 'gives' a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person 'receives' a notice or notification when:

"(a) It comes to his attention; or

"(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

"(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

"(28) 'Organization' includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

"(29) 'Party,' as distinct from 'third party,' means a person who has engaged in a transaction or made an agreement within this title.

"(30) 'Person' includes an individual or an organization (see section 7-1-102).

"(31) 'Presumption' or 'presumed' means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

"(32) 'Purchase' includes taking by sale, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary transaction creating an interest in property.

“(33) ‘Purchaser’ means a person who takes by purchase.

“(34) ‘Remedy’ means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

“(35) ‘Representative’ includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

“(36) ‘Rights’ includes remedies.

“(37) ‘Security interest’ means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 7-2-401) is limited in effect to a reservation of a ‘security interest’. The term also includes any interest of a buyer of accounts or chattel paper which is subject to article 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under section 7-2-401 is not a ‘security interest,’ but a buyer may also acquire a ‘security interest’ by complying with article 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a ‘security interest,’ but a consignment is in any event subject to the provisions on consignment sales (section 7-2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security. ‘Security interest’ shall not include a rental-purchase agreement as defined in the Alabama Rental-Purchase Agreement Act, Sections 8-25-1 through 8-25-6.

“(38) ‘Send’ in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

“(39) ‘Signed’ includes any symbol executed or adopted by a party with present intention to authenticate a writing.

“(40) ‘Surety’ includes guarantor.

“(41) ‘Telegram’ includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

“(42) ‘Term’ means that portion of an agreement which relates to a particular matter.

“(43) ‘Unauthorized’ signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

“(44) ‘Value.’ Except as otherwise provided with respect to negotiable instruments and bank collections (sections 7-3-303, 7-4-208 and 7-4-209) a person gives ‘value’ for rights if he acquires them:

“(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

“(b) As security for or in total or partial satisfaction of a preexisting claim; or

“(c) By accepting delivery pursuant to a preexisting contract for purchase; or

“(d) Generally, in return for any consideration sufficient to support a simple contract.

“(45) ‘Warehouse receipt’ means a receipt issued by a person engaged in the business of storing goods for hire.

“(46) ‘Written’ or ‘writing’ includes printing, typewriting or any other intentional reduction to tangible form.”

“§8-25-1.

“As used in this chapter, the following words and phrases shall have the following meanings ascribed to them, unless the context clearly indicates otherwise:

“(1) **ADVERTISEMENT.** A commercial message in any medium that directly or indirectly promotes or assists a rental-purchase agreement, except for in-store merchandising aids.

“(2) **CONSUMER.** An individual who leases personal property under a rental-purchase agreement.

“(3) **MERCHANDISE.** The personal property that is the subject of a rental-purchase agreement.

“(4) **MERCHANT.** A person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of

merchandise under a rental-purchase agreement, and includes a person who is assigned an interest in a rental-purchase agreement.

“(5) **RENTAL-PURCHASE AGREEMENT.** An agreement for the use of merchandise by a consumer for personal, family, or household purposes, for an initial period of four months or less that is automatically renewable with each payment after the initial period, and that permits the consumer to become the owner of the merchandise. This term does not include any transaction wherein a consumer sells personal property to a merchant and then leases the same personal property back with or without a right to repurchase the property. Any rental-purchase agreement in compliance with this chapter shall not be construed to be, nor governed by the laws relating to:

“(a) A ‘credit sale’ as that term is defined in subsection (4) of section 5-29-1; or

“(b) A ‘security interest’ as that term is defined in subsection (37) of section 7-1-201 of the Uniform Commercial Code.”

“§8-25-3.

“A rental-purchase agreement shall not contain a provision:

“(1) Requiring a confession of judgment;

“(2) Authorizing a merchant or agent of the merchant to commit a breach of the peace while repossessing merchandise;

“(3) Waiving a defense, counterclaim, or right the consumer may have against the merchant or an agent of the merchant; or

“(4) Requiring the purchase of insurance or waiver of liability from the merchant to cover the merchandise; provided, however, that the lessor may offer to the lessee any such insurance or waiver of liability if it is clearly and conspicuously disclosed on the face of the insurance or waiver of liability agreement, in print not less than 8 point bold face type, that the purchase of any such insurance or waiver of liability by the lessee from the lessor is optional. The charge for any insurance or waiver of liability shall not exceed fifteen percent (15%) of the rental payment.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:42 P.M.

Act No. 91-655

S. 512 — Senator Lindsey

AN ACT

To amend §36-27-23 of the Code of Alabama 1975, relating to the Employees' Retirement System of Alabama so as to provide for representation thereon for members of local units, to prescribe a method for their election and to provide for their terms of office.

Be It Enacted by the Legislature of Alabama:

Section 1. §36-27-23 of the Code of Alabama 1975 is hereby amended to read as follows:

“§36-27-23. Board of control; medical board; actuary.

“(a) The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article are hereby vested in a board of trustees which shall be known as the board of control.

“(b) The board shall consist of 13 trustees as follows:

“(1) The governor, ex officio, who shall be chairman.

“(2) The state treasurer, ex officio.

“(3) The state personnel director, ex officio.

“(4) The director of finance, ex officio.

“(5) Three members of the retirement system, to be appointed by the governor, no two of whom shall be from the same department of the state government nor from any department of which an ex officio trustee is the head. The terms of office of the three members appointed by the governor shall begin immediately after they have qualified and taken the oath of office.

“(6) Two members of the state employees' retirement system who shall be elected by a majority vote of the participating full-time state employees who are members of the said system. For their original terms, one shall serve for a two-year term and one shall serve for a three-year term. Thereafter, their successors each shall serve for a four-year term.

“a. During the month of July 1980, employees desiring to serve shall file with the state comptroller notice of their intent to run for the position. The comptroller shall cause to be prepared ballots for distribution to all state employees with their paychecks during the first pay period of August 1980. Each state payroll clerk within one week shall collect the executed ballots and return them to the comptrollers who shall forthwith tabulate the ballots and announce the results. A printout of the tabulation along with the ballots shall within three days be delivered by the comptroller to the secretary of state, who shall preserve the ballots and the printout for three months.

"b. At the expiration of terms of office of the respective original trustees elected under this subdivision (6), and every four years thereafter, their successors shall be elected in the same manner as provided by paragraph a. of this subdivision.

"(7) One member from the ranks of retired state employees and one member from the ranks of retired employees of a city, a county, or a public agency each of whom is an active beneficiary of the system shall be elected by a majority vote of the participating retired beneficiaries of the said system. The retired state employee member shall serve for a four-year term beginning October 1, 1984, and the member who is a retired employee of a city, a county or a public agency shall serve for a three-year term, beginning October 1, 1984, provided after the expiration date of the initial terms provided in this subdivision each term shall be for a period of three years.

"The retired members shall be elected in a statewide ballot conducted by the secretary-treasurer under rules promulgated by the board of control. The board of directors of the Alabama retired state employees association shall submit no more than two nominations for each retired member position. The board of control shall determine the procedure for selecting additional candidates. Such ballots shall be conducted prior to October 1, 1984 and each applicable year thereafter in order that the trustees can take office by October 1, next following such election."

(8) Two members of the retirement system who shall be employed by an employer participating pursuant to §36-27-6, Code of Alabama 1975, who shall be elected by a majority vote of the full-time employees of employers participating pursuant to §36-27-6, Code of Alabama 1975, and who are members of said system. For their original terms one shall serve a three-year term and one shall serve a four-year term. Thereafter, their successors each shall serve for a four-year term.

The election shall be conducted by the secretary-treasurer through use of a statewide ballot in accordance with rules promulgated by the board of control, which shall include a nomination petition of not less than 50 eligible voters. The election provided herein shall be conducted prior to October 1, 1991 and each applicable year thereafter in order that the trustees can take office October 1, next following such election.

"(c) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that of the trustees elected under subdivision (7) of subsection (b). In that event the vacancy for the unexpired term shall be filled by an appointment by the board of control of the employees' retirement system from a list of three retired employees furnished him by the board of directors of the Alabama retired state employees' association.

“(d) The trustees shall serve without compensation for their services as trustees, but they shall be reimbursed from the expense fund for all necessary expenses that they may incur through service on the board of control.

“(e) Each trustee shall, within 10 days after his appointment, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the board of control and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the retirement system. Such oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and immediately filed in the office of the secretary of state.

“(f) Each trustee shall be entitled to one vote in the board of control. Seven votes in favor of any decision shall be necessary for a decision by the trustees at any meeting of said board.

“(g) Subject to the limitations of this article, the board of control shall, from time to time, establish rules and regulations for the administration of the funds created by this article and for the transaction of its business.

“(h) The board of control, by a majority vote of all its members, shall elect a secretary-treasurer who shall serve as the chief executive officer of the retirement system. The board of control shall engage such actuarial and other special services as shall be required to transact the business of the retirement system. The compensation of all persons engaged by the board, with the exception of clerical employees who shall be employed under the provisions of the Merit System Act, and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board shall approve.

“(i) The board of control shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system.

“(j) The board of control shall keep a record of all its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the retirement system for the preceding year, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

“(k) The attorney general of the state shall be the legal adviser of the board of control.

“(l) The board of control shall designate a medical board to be composed of three physicians not eligible to participate in the

retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of control its conclusions and recommendations upon all matters referred to it.

“(m) The board of control shall designate an actuary who shall be the technical adviser of the board of control on matters regarding the operation of the funds created by the provisions of this article and shall perform such other duties as are required in connection therewith.

“(n) Immediately after the establishment of the retirement system the actuary shall make such investigation of the mortality, service and compensation experience of the members of the system as he shall recommend and the board of control shall authorize, and, on the basis of such investigation, he shall recommend for adoption by the board of control such tables and such rates as are required in subsection (o) of this section. The board of control shall adopt tables and certify rates and, as soon as practicable thereafter, the actuary shall make a valuation based on such tables and rates of the assets and liabilities of the funds created by this article.

“(o) In 1948, and at least once in each five-year period thereafter, the actuary shall make an actuarial investigation into mortality, service and compensation experience of the members and beneficiaries of the retirement system and shall make a valuation of the assets and liabilities of the funds of the system and, taking into account the results of such investigation and valuation, the board of control shall adopt for the retirement system such mortality, service and other tables as shall be deemed necessary and certify the rates of contribution payable by the state under the provisions of this article.

“(p) On the basis of such tables as the board of control shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this article.”

Section 2. This act shall become effective upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:43 P.M.

Bedsole, Bailey, Amari,
 Windom, Bennett, Parsons,
 Denton, Bolling, Wilson, Lindsey,
 Horn, Floyd, Ellis, Ghee and
 Smith (J)

AN ACT

To authorize football coaches of public, four-year institutions of higher learning in this state to participate in the American Football Coaches Retirement Trust 401(k) plan.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any other provisions to the contrary, any football coach employed by any public, four-year institutions of higher learning located in this state may elect to participate in the American Football Coaches Retirement Trust under the conditions provided herein.

Section 2. A football coach who elects to participate in the said Trust will be ineligible to contribute to either the state's deferred compensation or profit sharing plans administered on behalf of state employees during any calendar year in which such football coach makes contributions to the Trust.

Section 3. It is the expressly declared intent of the legislature that any institution which employs a participant in the Trust is authorized to make contributions or payments to the Trust on behalf of participants.

Section 4. The board of trustees of public, four-year institutions of higher learning in this state shall provide for the administration of such football coaches' participation in the Trust and perform or authorize the performance of such functions as may be necessary for such participation in accordance with this section and federal laws.

Section 5. The boards of trustees of public, four-year institutions of higher learning in this state shall be jointly responsible for filing an annual report on the status of the Trust. The report shall be filed with the State Treasurer no later than May 1 of each year, and shall cover the most recently ended plan, year ending on December 31. The report as specified herein shall include the following:

(a) Year-end financial statements including auditor's statements when available;

(b) Reports detailing contributions, and any earnings received by the Trust;

(c) Reports listing each participating state employee's contributions made to the Trust for the calendar year which were deducted from such employees' compensation;

- (d) Status reports relative to total participation in the Trust;
- (e) Copies of any amendments made to the plan; and
- (f) Publications by the Trust's administrator to the members and/or other interested parties.

Section 6. Notwithstanding any other provision of the law, any compensation deferred under this section shall be considered part of an employee's compensation for purposes of any other employee retirement, pension or benefit program. No deferral of income under this section shall effect a reduction of any retirement, pension or other benefit program otherwise provided by law.

Section 7. As provided by the United States Internal Revenue Code, any sum deferred under the Trust shall not be included for the purposes of computation of any federal income taxes withheld on behalf of any employee.

Section 8. The state finance director, the senate chairman of the finance and taxation committee, the house chairman of the ways and means committee, and the chief executive officer of the Alabama Retirement Systems shall be responsible for authorizing the participation in the Trust as conferred by this section, for suspending participation in the Trust at any time, or withdrawing from participation in the Trust at any time.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:44 P.M.

Act No. 91-657

S. 75 — Senators Smith (J) and Mitchell

AN ACT

To amend Sections 32-6-250, 32-6-251 and 32-6-254 Code of Alabama 1975, which provide distinctive license plates for Medal of Honor Recipients and Prisoners of War, so as to include recipients of the Purple Heart Medal.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-6-250, Code of Alabama 1975, is hereby amended to read as follows:

"A distinctive permanent license plate shall be issued to any resident of the state who is a recipient of the Medal of Honor or the Purple Heart Medal or who is a duly recognized American prisoner of war, or who is an American who was a duly recognized prisoner of war while serving with a formal American ally force, for use on a private motor vehicle registered in the recipient's name. There shall be no fee or tax for such license plate, except Purple Heart Medal recipients shall pay ad valorem taxes on vehicles for which such distinctive plates are issued, and no recipient shall receive a plate for more than one vehicle."

Section 2. Section 32-6-251, Code of Alabama 1975, is hereby amended to read as follows:

"The special plates shall be of the same size as regular motor vehicle license plates, distinguished by the letters MOH or PHM to be of a different color scheme and design to any other vehicle tag in this state, or POW to be of the same color scheme as other distinguished military tags in this state, whichever distinctive design applies, the nature of which shall be prescribed by a committee to be appointed by the chief legislative sponsors of this division."

Section 3. Section 32-6-254, Code of Alabama 1975, is hereby amended to read as follows:

"The use and transferability of such plates shall be the same as the method used for national guard and air national guard plates as provided in sections 32-6-111 through 32-6-114. Provided, however, said license plates shall be permanent in nature and shall not be reissued each year. A recipient shall be entitled to keep his license plate for life. Provided further, upon the death of any recipient, the surviving spouse shall be entitled to retain said distinctive permanent plate, at no fee or tax, except that surviving spouses of Purple Heart Medal recipients shall pay ad valorem taxes due, for one private motor vehicle owned by the surviving spouse for the remainder of said spouse's lifetime or until her remarriage."

Section 4. This act shall become effective October 1, 1992.

Approved August 8, 1991

Time: 2:45 P.M.

Act No. 91-658

S. 51 — Senator Preuitt

AN ACT

Relating to the Alabama Institute for Deaf and Blind; to provide that the sale or disposal of tangible personal property or standing timber shall be let by competitive public auction or sealed bids; to provide for notice and inspection; to provide for re-advertisement and sale or a negotiated sale in the event bids were inadequate; to provide for the disposition of the proceeds and the continuous appropriation of same; to

provide for civil and criminal penalties; and to provide for retroactive effect and validation.

Be It Enacted by the Legislature of Alabama:

Section 1. All contracts of whatever nature for the sale or disposal of tangible personal property or standing timber owned by the Alabama Institute for Deaf and Blind shall be let by free and open competitive public auction or sealed bids by the Alabama Institute for Deaf and Blind. Every proposal to make a sale covered by this act shall be advertised for at least two weeks in advance of the date fixed for receiving the bids. Such advertisement shall appear at least once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be made, and a copy of such proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the President of the Alabama Institute for Deaf and Blind and a public bulletin board at the Talladega County Courthouse. Advertisements for bids shall state the item or items to be sold, by class and description, where the property is located, and the dates, time, and place the property may be inspected. The advertisements shall further state the date, time, and place of auction or opening of sealed bids, and no bid shall be received at any time after the time advertised. The bids shall be publicly taken, or opened in case of sealed bids, by the President or his authorized representative, and all bidders shall be entitled to be present in person or by representative. The award of the contract shall be made to the successful bidder within seventy-two (72) hours after taking of the bids unless the awarding authority, by formal action, provides for a reasonable extension of that period. The bid of the successful bidder so marked, as well as the bids of the unsuccessful bidders in the case of sealed bids, shall be placed on file open to public inspection and shall become matters of public record.

Section 2. The President of the Alabama Institute for Deaf and Blind, with consent of the majority of the board of trustees, or his authorized representative may sell all items by lot or by individual item, whichever method, in his opinion, will bring the highest return for the items so advertised; provided, however, that in the event all bids received are less than the estimated market value of the property, the President or his authorized representative may reject all bids and re-advertise or sell by negotiated sale, provided further, however, that in the event the property is sold by negotiated sale under the provisions of this section, the value received must be more than the highest bid or bids received.

Section 3. No officer or employee of the Alabama Institute for Deaf and Blind shall act as agent for any bidder; provided, however, that such officers or employees shall not be excluded from bidding on or purchasing Alabama Institute for Deaf and Blind property under this act.

Section 4. All property advertised under the provisions of this act shall be available for inspection during the normal office hours and at whatever place advertised for at least forty-eight (48) hours prior to sale.

Section 5. All proceeds from sales made under the provisions of this act shall be paid into the Alabama Institute for Deaf and Blind general fund or other legally authorized depository, and are hereby continuously appropriated for immediate use by the Alabama Institute for Deaf and Blind.

Section 6. All property sold under the provisions of this act shall be paid for by the purchaser or his representative at the time of removal, and said removal shall not be later than seven (7) days after the awarding of the contract unless extended in writing by the President or his authorized representative; provided, however, the time limit of seven (7) days shall not be applicable to sales of standing timber.

Section 7. Any sale of tangible personal property or standing timber of the Alabama Institute for Deaf and Blind made in violation of the terms of this act shall be null and void and the person or persons responsible for the transaction and his bondsman shall be subject to a civil penalty of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) which may be recovered for the Alabama Institute for Deaf and Blind by the Attorney General by suit in the Circuit Court of Talladega County.

Section 8. Violation of any of the provisions of this act shall constitute a misdemeanor.

Section 9. This act shall not affect liabilities incurred, rights of benefits accrued, or proceedings begun before its effective date. Provided, however, all sales or disposal of tangible personal property or standing timber owned by the Alabama Institute for Deaf and Blind and made in accordance with the general procedure provided herein, are hereby validated retroactively.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are hereby repealed.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:46 P.M.

Act No. 91-659

S. 400 — Senator Figures

AN ACT

To prohibit discrimination in the selling, renting, leasing, and financing of housing; to prohibit certain actions and activities; to provide for hearings and appeals; and to provide penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the “Alabama Fair Housing Law.”

Section 2. Within constitutional limitations, it is the policy of this state to provide for fair housing throughout the state.

Section 3. The following words and phrases used in this act shall have the following respective meanings unless the context clearly indicates otherwise:

(1) ADECA means the Alabama Department of Economic and Community Affairs.

(2) “Covered multifamily dwellings” means:

a. Buildings consisting of four or more units if the buildings have one or more elevators; and

b. Ground floor units in other buildings consisting of four or more units.

(3) “Discriminatory housing practice” means an act that is unlawful under this act.

(4) “Dwelling” means any building or structure, or portion of any building or structure, which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location on it of any such building or structure, or portion of it.

(5) a. “Familial status” means one or more individuals who have not attained the age of 18 years and are domiciled with:

1. A parent or another person having legal custody of the individual; or

2. The designee of the parent or other person having the custody, with the written permission of parent or other person.

b. The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(6) "Handicap" means, with respect to a person:

- a. A physical or mental impairment which substantially limits one or more of the person's major life activities;
- b. A record of having such an impairment; or
- c. Being regarded as having an impairment. The term "handicap" excludes current, illegal use of or addiction to a controlled substance as defined by law.

(7) "Housing for older persons" means housing:

- a. Provided under any state or federal program that the attorney general determines is designed specifically and operated to assist elderly persons, as defined in the state or federal program; or

- b. Intended for, and solely occupied by persons 62 years of age or older; or

- c. Intended and operated for occupancy by at least one person 55 years of age or older for each unit. In determining whether housing qualifies as housing intended and operated for occupancy by at least one person 55 years of age or older, the Alabama Department of Economic and Community Affairs shall develop regulations which require at least the following factors:

- 1. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons; and

- 2. That at least 80 percent of the dwellings are occupied by at least one person 55 years of age or older for each unit; and

- 3. The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

- d. Housing does not fail to meet the requirements for housing for older persons by reason of:

- 1. Persons residing in this housing as of the date of enactment of this act who do not meet the requirements of paragraph b or c; or

- 2. Unoccupied units, provided that these units are reserved for occupancy by persons who meet the new requirements of paragraph b or c.

(8) "Office" means office of ADECA.

(9) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(10) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Section 4. It shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale of rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, religion, sex, familial status, or national origin;

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with it, because of race, color, religion, sex, familial status, or national origin;

(3) To make, print or publish, or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin or an intention to make the preference, limitation, or discrimination;

(4) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available to inspection, sale or rental when the dwelling is available;

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin;

(6) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

a. That buyer or renter;

b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

c. Any person associated with that buyer or renter;

(7) To discriminate against a person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of

services or facilities in connection with the dwelling, because of a handicap of:

- a. That person;
- b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
- c. Any person associated with that person.

Section 5. It shall be unlawful to deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of the access, membership, or participation on account of race, color, religion, sex, handicap, familial status, or national origin.

Section 6. (a) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of the transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) As used in this section, "residential real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

- a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
- b. Secured by residential real estate; or

(2) The selling, brokering or appraising of residential real property.

(c) Nothing in this act prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap or familial status.

Section 7. (a) The provisions of Sections 4 and 6 do not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his residence.

(b) The provisions of Sections 4 and 6 do not apply to any single-family house sold or rented by an owner when:

- (1) The private individual owner does not own more than three single-family houses at any one time; and

(2) In the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house before the sale, the exemption granted by this subsection shall apply only with respect to one sale within a 24-month period; and

(3) A bona fide private individual owner does not own an interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or a right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time.

(c) After the effective date of this act, the sale or rental of a single-family house is excepted from the application of this subsection only if the house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of a real estate broker, agent, or salesman, or of the facilities or services of a person in the business of selling or renting dwellings, or of an employee or agent of a broker, agent, salesman, or person; and

(2) Without publication posting or mailing, after notice, of an advertisement or written notice in violation of this act. Nothing in this subsection prohibits the use of attorneys, escrow agents, abstractors, title companies, and other professional assistance as necessary to perfect or transfer this title.

(d) For the purposes of this section, a person is considered to be in the business of selling or renting dwellings if he:

(1) Has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest in it;

(2) Has, within the preceding 12 months, participated as agent, other than in the sale of his personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest in it; or

(3) Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(e) The provisions of this act shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership

in the religion is restricted because of race, color, or national origin. The provisions of this act shall not prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(f) It is not unlawful under subdivisions (1) or (2) of Section 4 for any person to deny or limit the rental of housing to persons who pose a real and present threat of substantial harm to themselves, to others, or to the housing itself.

(g) The provisions of this act shall not prohibit conduct against a person because the person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by law.

(h) For purposes of subdivision (6) of Section 4, the term "discrimination" includes:

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that:

a. The public use and common use portions of such dwelling are readily accessible to and usable by handicapped persons;

b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

c. All premises within these dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;

2. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

3. Reinforcements in the bathroom walls to allow later installation of grab bars; and

4. Usable kitchens and bathrooms that an individual in a wheel-chair can maneuver about the space.

(i) Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities Providing Accessibility and Usability for Physically Handicapped People (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of Section 7 (h)(3)c.

(1) If a unit of local government has incorporated into its laws the requirements in subsection (h)(3) of this section, compliance with these laws is considered to satisfy the requirements.

(2) A unit of local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of subsection (h)(3) of this section are met.

(3) The office shall encourage, but may not require, units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of these dwellings are consistent with subsection (h)(3) of this section, and shall provide technical assistance to units of local government and other persons to implement the requirements of subsection (h)(3) of this section.

(4) Nothing in this act may be construed to require the office to review or approve the plans, designs, or construction of all covered multifamily dwellings, to determine whether the design and construction of these dwellings are consistent with the requirements of subsection (h)(3) of this section.

(j)(1) Nothing in subsection (i) of this section may be construed to affect the authority and responsibility of the attorney general to receive and process complaints or otherwise engage in enforcement activities under this act.

(2) Determinations by the unit of local government under subsection (i) are not conclusive in enforcement proceedings under this act.

(k) Nothing in this act may be construed to invalidate or limit any rule, regulation, resolution or ordinance of a political subdivision of the state that requires dwellings to be designed and

constructed in a manner that affords handicapped persons greater access than is required by this act.

(l) Nothing in this act requires that a dwelling be made available to an individual whose occupancy would constitute a direct threat to the health or safety of other individuals or whose occupancy would result in substantial physical damage to the property of others.

(m) Nothing in this act limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Owners and managers of dwellings may develop and implement reasonable occupancy and safety standards based on factors such as the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit so long as the standards do not violate local, state, or federal restrictions. The provisions in this act regarding familial status shall not apply to housing for older persons. The provisions of this act shall not prohibit the lease application or similar document from requiring information concerning the number, age, sex, and familial relationship of the applicants and the dwellings intended occupants. The owner or manager may consider these factors in determining payment of utilities. The application also may require disclosure by the applicant of the conviction of any intended occupant for violating any laws pertaining to the illegal manufacture or distribution of a controlled substance as defined in Title 22 of the Code of Alabama 1975.

(n) The provisions of Section 4 with respect to discrimination based on sex do not apply to the rental or leasing of dwellings in a single-sex dormitory property.

Section 8. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise of, or on account of his having aided or encouraged any other person in the exercise of any right granted under this act.

Section 9. (a) The office shall administer the provisions of this act.

(b) The office may delegate any of its functions, duties, and powers to its employees including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this act.

Section 10. The office has the power to:

(1) Promulgate regulations necessary for the enforcement of this act which may not exceed the requirements of the 1988 Fair Housing Amendments Act (PL 100-430) and any subsequent amendments to it;

(2) Make studies with respect to the nature and extent of discriminatory housing practices in representative urban, suburban, and rural communities throughout the state;

(3) Publish and disseminate reports, recommendations, and information derived from the studies;

(4) Cooperate with and render technical assistance to public or private agencies, organizations, and institutions within the state which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(5) Cooperate with the United States Department of Housing and Urban Development to achieve the purposes of that department and with other federal, state, and local agencies and departments;

(6) Accept reimbursement pursuant to Title 28, United States Code, Section 817, for services rendered to the United States Department of Housing and Urban Development;

(7) Accept gifts or bequests, grants, or other donations, public or private;

(8) Institute proceedings in a court of competent jurisdiction, for cause shown, to seek appropriate temporary or preliminary injunctive relief pending final administrative disposition of a complaint;

(9) Contract with persons and organizations to perform services as it may consider reasonably necessary to effectuate the purposes of this act and to accept reimbursement for services rendered pursuant to the contract. However, the office may not delegate its decision making authority to a nongovernmental agency. This decision making authority includes acceptance of complaints, approval of conciliation agreements, dismissal of complaints, final disposition of complaints, or other enforcement powers granted by this act;

(10) Make contractual agreements within the scope and authority of this act with any agency of the federal government. An agreement with the Department of Housing and Urban Development may include provisions under which said office shall refrain from processing a charge in this state in any class specified in the agreement;

(11) Administer the programs and activities relating in a manner affirmatively to further the policies of this act.

Section 11. (a) In conducting an investigation, the office shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of

evidence and may examine, record, and copy the materials and take and record the testimony or statements of persons as are reasonably necessary for the furtherance of the investigation, provided the office first complies with the constitutional provisions relating to unreasonable searches and seizures. The office may issue subpoenas to compel its access to or the production of the materials or the appearance of the persons and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in court. The office may administer oaths. Any examination, recording, copying of materials, and the taking and recording of testimony or statements of persons as reasonably are necessary for the furtherance of the investigation must be solely related to the complaint for which the subpoena was issued.

(b) Upon written application to the office, a respondent is entitled to the issuance of a reasonable number of subpoenas by and in the name of the office to the same extent and subject to the same limitations as subpoenas issued by the office itself. A subpoena issued at the request of a respondent shall show on its face the name and address of the respondent and shall state that it was issued at his request.

(c) Within five days after service of a subpoena upon any person, the person may petition the office to revoke or modify the subpoena. The office shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, or that compliance would be unduly onerous or for other good reason.

(d) In case of refusal to obey a subpoena, the office or the person at whose request the subpoena was issued may petition for its enforcement in the circuit court for the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(e) Witnesses summoned by a subpoena under this act are entitled to the same witness and mileage fees as witnesses in proceedings in court. Fees payable to a witness summoned by a subpoena issued at the request of a party must be paid by that party or, where a party is unable to pay the fees, by the office.

Section 12. (a) A person who claims to have been injured by a discriminatory housing practice or who believes that he may be injured by a discriminatory housing practice that is about to occur may file a complaint with the office. Complaints must be in writing

and shall contain information and be in a form required by the office. Upon receipt of a complaint, the office shall serve notice upon the aggrieved person of the time limits and choices of forums provided under this act and shall furnish a copy to the person who allegedly committed the discriminatory housing practice or is about to commit the alleged discriminatory housing practice and advise him of the procedural rights and obligations under the law. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under subsection (c), the office shall investigate the complaint and give notice in writing to the person aggrieved whether it intends to resolve it. If the office decides to resolve the complaint, it shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. If practicable, conciliation meetings must be held in the cities or other localities where the discriminatory housing practices allegedly occurred. Nothing said or done in the course of the informal endeavors may be made public or used as evidence in a subsequent proceeding under this act without the written consent of the persons concerned. An employee of the office who makes public any information in violation of this provision is guilty of a misdemeanor punishable by a fine of not more than \$200.00, or imprisoned for not more than 30 days.

(b) A complaint under subsection (a) must be filed within 180 days after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him, not later than 10 days after receipt of notice, and may be amended reasonably and fairly by the respondent at any time. Both complaint and answer must be verified.

(c) Wherever a local fair housing law provides rights and remedies for alleged discriminatory housing practices which substantially are equivalent to the rights and remedies provided in this act, the office shall notify the appropriate local agency of any complaint filed under this act which appears to constitute a violation of the local fair housing law, and the office shall take no further action with respect to the complaint if the local law enforcement official, within 30 days from the date the alleged offense was brought to his attention, has commenced proceedings in the matter. In no event may the office take further action unless it certifies that in its judgment, under the circumstances of the particular case, the protection of the rights of the parties or the interest of justice require the action. Complaints referred to the office by the Department of Housing and Urban Development may not be referred by the office to a local agency.

(d) Any conciliation agreement arising out of conciliation efforts by the office must be an agreement between the respondent and the complainant and is subject to the approval of the office. Each conciliation agreement must be made public unless the complainant and respondent otherwise agree and the office determines that disclosure is not required to further the purposes of this act.

(e) The investigation must be completed in no more than 100 days after receipt of the complaint. If the office is unable to complete the investigation within 100 days, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(f) The office shall make final administrative disposition of a complaint within one year of the date of receipt of a complaint unless it is impractical to do so. If the office is unable to do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so.

(g) In any proceeding brought pursuant to this section, the burden of proof is on the complainant.

(h) Whenever an action is filed by an individual in court pursuant to this section or Section 14 comes to trial, the office shall terminate all efforts to obtain voluntary compliance.

Section 13. (a) If not sooner resolved, the investigator, upon completion of his investigation, shall submit to ADECA a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that a panel of office members be designated to hear the complaint. ADECA, after review of the case file and the statement and recommendation of the investigator, shall issue an order either of dismissal or for a hearing, which is not subject to judicial or other further review.

(b) If the order is for dismissal, ADECA shall mail a copy of the order to the complainant and the respondent at their last known addresses. The complainant may bring an action against the respondent in circuit court within 90 days of the date of the dismissal or within one year from the date of the violation alleged, whichever occurs later, to enforce the rights granted or protected by this act and to seek relief as provided for in Section 14.

(c)(1) If the order is for a hearing, ADECA shall attach to it a notice and a copy of the complaint and require the respondent to answer the complaint at a hearing at a time and place specified in the notice and shall serve upon the respondent a copy of the order, the complaint, and the notice.

(2) Either party may elect to have the claims asserted in the complaint decided in a civil action. ADECA notice must be sent to all parties and inform them of their right to take civil action. An

election must be made within 20 days after receipt of the notice. A party making this election shall notify ADECA and all other parties. If an election is made for a civil action, ADECA shall, within 30 days from the date of election, commence and maintain a civil action pursuant to Section 14 on behalf of the aggrieved person.

(d) At any time before a hearing, a complaint may be amended by ADECA upon the request of the investigator or of the complainant or of the respondent. Complaints may be amended during a hearing only upon a majority vote of the panel of office members for the hearing.

(e) Upon request by any party, ADECA shall issue appropriate subpoenas or subpoenas duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless ADECA determines that issuance of the subpoenas or subpoenas duces tecum would be unreasonably or unduly burdensome.

(f) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the office, upon notice to the party or witness, shall apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the office determines that the discovery would be unreasonably or unduly burdensome.

(g) ADECA shall designate a panel of three persons to hear the complaint.

(h) At any hearing held pursuant to this section, the case in support of the complaint must be presented before the panel by one or more of the offices's employees or agents or by legal representatives of the complaining party. Endeavors at conciliation by the investigator may not be received into evidence nor otherwise made known to the members of the panel.

(i) The respondent shall submit a written answer to the complaint and appear at the hearing in person or by counsel and may submit evidence. The respondent may amend his answer reasonably and fairly.

(j) The complainant must be permitted to be present and submit evidence.

(k) Proceedings under this section are subject to the provisions of the Alabama Administrative Procedure Act, and in the case of conflict between the provisions of this act and the Alabama Administrative Procedure Act, the provisions of the Alabama Administrative Procedure Act shall govern. A recording of the

proceedings must be made, which may be transcribed subsequently upon request and payment of a reasonable fee by the complainant or the respondent. The fee must be set by the office or upon motion of the panel, in which case copies of the transcription must be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the office.

(l) If, upon all the evidence at the hearing, the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the complainant and the respondent in the name of the office an opinion and order for appropriate relief which may include that the unlawful discriminatory practice be discontinued, actual damages, civil penalties which may not be greater than civil penalties established by the federal Fair Housing Act in Section 812 and reasonable attorney's fees. The office may retain jurisdiction of the case until it is satisfied of compliance by the respondent of its order.

(m) If, upon all the evidence at the hearing, the panel finds that the respondent has not engaged in any unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent. A prevailing respondent may apply to the office for an award of reasonable attorney's fees and costs.

(n) A copy of the opinion and order of the office shall be delivered in all cases to such other public officers as the office considers proper. Copies of the opinion and order must be available to the public for inspection upon request, and copies must be made available to any person upon payment of a reasonable fee set by the office.

(o)(1) If an application for review is made to the office within 14 days from the date the order of the office has been given, the office, for good cause shown, shall review the order and evidence, receive further evidence, rehear the parties or their representatives, and if proper, amend the order.

(2) Either party to the dispute, within 30 days after receipt of notice to be sent by registered mail of the order, but not after that time, may appeal from the decision of the office to the circuit court of the county in which the hearing occurred, or in which the respondent resides or has his principal office. In case of an appeal from the decision of the office, the appeal shall operate as a supersedeas for 30 days only, unless otherwise ordered by the court, and after that the respondent is required to comply with the order involved in the appeal or certification until the questions at issue in it have been determined fully in accordance with the provisions of this act.

(3) The office may institute a proceeding for enforcement of its order of subsection (1), or its amended order of subdivision (1) after 30 days from the day of the order, by filing a petition in the circuit court of the county in which the hearing occurred, or where any person against whom the order is entered resides or transacts business.

(4) If no appeal under subdivision (2) is initiated, the office may obtain a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the office's order.

Section 14. (a) A civil action must be commenced within one year after the alleged discriminatory housing practice has occurred. However, the court shall continue a civil case brought pursuant to this section, from time to time, before bringing it to trial if the court believes that the conciliation efforts of the office or local agency are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the office or to the local agency and which practice forms the basis for the action in court. Any sale, encumbrance, or rental consummated before the issuance of any court order issued under the authority of this act and involving a bona fide purchaser, encumbrances, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this act are not affected. A civil action may be commenced by an aggrieved person whether or not a complaint has been filed with the office.

(b) The court may grant as relief, as it considers appropriate, any permanent or temporary injunction, temporary restraining order, or other order and may award the plaintiff actual damages, and punitive damages, together with court costs and reasonable attorney's fees in the case of a prevailing party, if the prevailing party in the opinion of the court is not financially able to assume the attorney's fees.

Section 15. Before accepting any complaint under this act, the office shall determine if the complainant has filed a similar complaint with the Federal Home Loan Bank Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation of the Federal Reserve System, the United States Department of Housing and Urban Development, or any other agency with authority to investigate and resolve complaints alleging a violation of this act. If a complaint has been filed or is filed, subsequently the office shall coordinate efforts to resolve the complaint with that agency in order to avoid multiple investigations of the respondent.

Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 17. All laws or parts of laws which conflict with this act are hereby repealed.

Section 18. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:47 P.M.

Act No. 91-660

S. 466 — Senator Preuitt

AN ACT

To amend section 38-10-9, Code of Alabama 1975, which provides for the department of human resources to conduct investigations regarding financial ability of parents who owe child support, so as to authorize the department to conduct investigations to locate absent parents; to provide a penalty for failure to provide information; and to require private employers upon written request to furnish the department with certain information regarding a parent or putative parent in their employ; to amend section 38-10-12, Code of Alabama 1975, so as to exclude federal and state offset collections and disregard payments from the requirement that child support collections be disbursed within five days of receipt, in order to clarify compliance with other state law and federal regulations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 38-10-9, Code of Alabama 1975, is hereby amended to read as follows:

“§ 38-10-9.

“(a) The department is authorized and empowered to conduct investigations to determine the location of parents and putative parents alleged or known to owe child support.

“(b) The department is authorized and empowered to conduct investigations to determine the location, income, and assets including real or personal property or income producing property of parents alleged or known to have a child support obligation.

“(c) The department is authorized and empowered to notify a parent of his legal duty to provide support and to require information concerning his financial status in order to determine whether or not he is financially able to provide support.

“(d) Such notice may inform the parent that he may be liable for reimbursement of any support furnished as public assistance or aid prior to determination of his financial circumstances, as well as future and past support payments due and not paid by him.

"(e) Any person who knowingly falsifies such parent's report of his income and resources and other matters bearing on his ability to provide support shall upon conviction be punished as for false swearing or perjury.

"(f) If any parent shall refuse to provide the department with information as provided herein, or provides incomplete or false information, the department shall be authorized to petition the appropriate district or circuit court of this state requesting that the court issue a citation to the parent requiring said parent to appear before the court and submit to an oral examination, under oath, touching on the amount of his income and the nature, location, description and value of his assets. Should the parent, after being served with said citation, fail to appear before the court on the date and time stated in the court's citation, then the parent shall be subject to the contempt authority of the court.

"(g) For purposes provided herein, private employers shall upon written request by the department, provide the department with the name, social security account number, address, date of birth, wages, unemployment and workmen's compensation status, availability and coverage for medical insurance (including insurance coverage on dependents) and numbers of dependents listed for tax purposes, of any parent or putative parent."

Section 2. Section 38-10-12, Code of Alabama 1975, is hereby amended to read as follows:

"§ 38-10-12.

"Any child support payments made directly to the state department of human resources, including the state and county departments, under any and all of its child support programs and other child support programs administered by it, including such programs administered pursuant to the requirements of Title IV-D of the Social Security Act, and any such payments, or any portion thereof, are due to be disbursed to the child's custodian, the department of human resources receiving such payment shall within five working days after the day of its receipt make remittance of the amount due by mailing it to the child's custodian; except that distribution of collections received pursuant to the federal tax offset provisions of Title IV-D of the Social Security Act or pursuant to the setoff debt collection provisions of article 3, chapter 18, Title 40, Code of Alabama 1975, shall not be governed by this section, but shall be made pursuant to that article and federal requirements and except further that any child support disregard payment to current aid to families with dependent children recipients shall not be governed by this section, but shall be made pursuant to federal requirements."

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:50 P.M.

Act No. 91-661

S. 443 — Senator Wilson

AN ACT

To provide further for juvenile court jurisdiction; to provide for courts exercising juvenile jurisdiction in dependency cases and remedies including: the option of entering an order of protection or restraint after notice and hearing, or on an emergency basis without notice, to protect the health or safety of a child through issuance of an order to require persons: to stay away from the home, the child or the family; to vacate the home; to limit visitation rights; to deny access to the home; to refrain from the commission of certain acts; to cooperate with counseling, treatment, or service plans; to obtain and participate in counseling; to restrain abusive, disruptive or harassing behavior; to limit or restrict contact or communication with the child or family; to pay temporary support or the cost of treatment of the child or family; to provide further for issuance of an emergency order without prior notice and hearing followed by a later court hearing within a specified time; to provide that a protective or restraint order, after notice and hearing, may be modified or terminated; to provide for criminal penalties; to provide that person(s) violating such orders may be held in contempt of court and be ordered to pay court costs and attorney fees for wilful conduct; and to provide that the provisions of this act shall be construed in *pari materia* with sections 30-5-1 through 30-5-11, Code of Alabama 1975, as amended, which is the "Protection From Abuse Act" and other criminal laws relating to child abuse laws, except to the extent there are no conflicts with this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Any court exercising juvenile jurisdiction under Title 12, chapter 15, Code of Alabama 1975, may, at any time, after a dependency petition has been filed, or on an emergency basis, enter an order of protection or restraint to protect the health or safety of the child.

Section 2. A protection or restraint order may be entered after notice and hearing, upon proper showing by a preponderance of the evidence that such an order is necessary to protect the

health or safety of the child or is otherwise in the child's best interest.

Section 3. (a) The order may set forth reasonable conditions of behavior to be observed by a person who is a parent or other person legally responsible for the child's care, or the spouse of the parent, or spouse of any other person legally responsible for the child's care, or relatives of any of the above, or residents of the child's home, or any other person.

(b) The order may, among other things, require any such person(s):

(1) To stay away from the home in which the child resides, the family or the child;

(2) To vacate the home in which the child resides;

(3) To permit a parent to visit the child at stated periods under stated conditions or deny visitation;

(4) To deny access to the home in which the child resides to persons who have been harmful to the child;

(5) To refrain from acts of commission or omission that tend to make the home in which the child resides an unsafe place for the child;

(6) To cooperate with any treatment or department of human resources service plan found necessary to the best interests of the child;

(7) To obtain or participate in individual or family counseling;

(8) To refrain from abusive, disruptive, or harassing behavior toward the child, the other parent, or toward any person to whom custody of the child is awarded;

(9) To limit or refrain from contact or communication with the child, family, children in the home or any other child; and

(10) To pay temporary support for the child or other family members; to pay the costs of medical, psychiatric or physical treatment or care of the child or other family members.

Section 4. The court may enter a protection or restraint order on an emergency basis, without prior notice and hearing, upon a showing of verified written or oral evidence of abuse or neglect injurious to the health or safety of the child and the likelihood that such abuse or neglect will continue unless the order is issued. If an emergency order is issued, a hearing, after notice, must be held within 72 hours or the next judicial business day thereafter, to either dissolve, continue or modify the order.

Section 5. After notice and opportunity for hearing afforded to a person subject to a protective or restraint order, the order may be modified or extended for a further specified period, or both, or may be terminated if the court finds that the best interests of the child will be served thereby.

Section 6. Any person violating an order of protection or restraint shall be punishable for contempt of court, as in other cases, and shall upon a finding of wilful conduct, be responsible for the payment of court costs and attorney fees incurred by any person in seeking enforcement of the order.

Section 7. The provisions of this act shall be construed in pari materia with sections 30-5-1 through 30-5-11, Code of Alabama 1975, as amended, and other criminal laws relating to child abuse except to the extent there is no conflict herewith.

Section 8. The provisions of the act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which shall remain.

Section 9. This act shall be effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:51 P.M.

Act No. 91-662

S. 97 — Senator Dial

AN ACT

To authorize the state department of human resources by and through its commissioner, to enter into interstate adoption assistance compacts to provide for medical and other necessary services for special needs children; to provide procedures for interstate adoption assistance payments, including medical payments; and to provide a penalty for the false or fraudulent submission of any claim for payment or reimbursement for services.

Be It Enacted by the Legislature of Alabama:

Section 1. The legislature finds that:

(1) Finding adoptive families for children, for whom adoption assistance is desirable, and assuring the protection of the interests of the children affected during the entire assistance period requires special measures when the adoptive parents move to other states or are residents of another state; and

(2) The provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

Section 2. The purpose of this act is to authorize the state department of human resources to enter into interstate agreements with agencies of other states for the protection of children for whom adoption assistance is being provided by the state department of human resources, and to provide procedures for interstate adoption assistance payments for children, including medical payments.

Section 3. As used in this act, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **State.** A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

(2) **Adoption assistance state.** The state that is signatory to an adoption assistance agreement in a particular case.

(3) **Residence state.** The state of which the child is a resident by virtue of the residence of the adoptive parents.

Section 4. The state department of human resources, by and through its commissioner, is authorized to develop, negotiate and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes set forth in this act. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

Section 5. A compact entered into pursuant to the authority conferred by this act shall include:

(1) A provision making the compact available for joinder by all states;

(2) A provision or provisions allowing withdrawal from the compact upon written notice to the parties, but requiring a period of one year between the date of the notice and the effective date of the withdrawal;

(3) A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who, on the effective date of the withdrawal, are receiving adoption assistance from a party state other than the one in which they are residents and have their principal place of abode;

(4) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance, and further, that any such agreement be expressly for the

benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance;

(5) Such other provisions as may be appropriate to implement the proper administration of the compact.

Section 6. A compact entered into pursuant to the authority conferred by this act may contain provisions in addition to those required pursuant to Section 5 of this act, as follows:

(1) Provisions establishing procedures and entitlements to medical, developmental, child care or other social services for the child in accordance with applicable laws, even though the child and the adoptive parents are in a state other than the one responsible for providing the services or the funds to defray part or all of the costs thereof; and

(2) Such other provisions as may be appropriate or incidental to the proper administration of the compact.

Section 7. (a) A child with special needs residing in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this state upon the filing in the medicaid office of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. The adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) The terms of the compact entered into by the Department and addressed in this statute will apply to children who are the subject of a federal adoption assistance agreement. At the Department's option, and in concurrence with the Alabama Medicaid Agency, the state may elect to provide the benefits described in this statute to children who are the subject of a state adoption assistance agreement, in which case the Department of Human Resources will pay the state's share of the cost of Medicaid coverage for children who are the subject of a state adoption assistance agreement and who are also eligible for Medicaid according to applicable federal and state laws and regulations.

(c) The state medicaid office shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(d) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this state.

Section 8. The state department of human resources shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the state department of human resources for coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child must obtain prior approval from the state department of human resources and may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The state department of human resources shall make regulations implementing this subsection. Among other things, such regulations shall include procedures to be followed in obtaining prior approvals for service in those instances where required for the assistance.

Section 9. The submission of any claim for payment or reimbursement for services or benefits pursuant to Section 7 or 8 of this act or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury.

Section 10. Consistent with federal law, the state department of human resources and the Alabama medicaid agency, in connection with the administration of this act and any compact pursuant hereto, shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Title IV-E, 42 U.S.C. §§670-676 and XIX of the Social Security Act, 42 U.S.C. §1396 and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The aforementioned department(s) shall apply for and administer all relevant federal aid in accordance with law.

Section 11. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. All laws or parts of laws which conflict with this act are hereby repealed.

Section 13. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:52 P.M.

Act No. 91-663

S. 47 — Senators Bolling, Ghee, Hale, Dixon, Owens, Amari, Bailey, Waggoner, Bedsole, Dial, Smith (J), Denton, Campbell, Mitchell, Little, Ellis, deGraffenried, Floyd, Preuitt, and Smith (B)

AN ACT

To amend Sections 27-26-5 and 34-24-56, Code of Alabama 1975, relating to the reporting of medical malpractice judgments and settlements, so as to provide further for the reporting of judgments and settlements entered against professional corporations.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 27-26-5, Code of Alabama 1975, is hereby amended to read as follows:

“§27-26-5.

“(a) Any insurance company which sells medical liability insurance to Alabama physicians or their professional corporations or professional associations, or to hospitals or other health care providers shall be required to report to the state licensing agency which issues the license of the physician, hospital or other health care provider any final judgment or any settlement in or out of court resulting from a claim or action for damages for personal injuries caused by an error, omission or negligence in the performance of professional services with or without consent rendered by its policyholder within 30 days after entry of a judgment in court or agreement to settle a claim in or out of court.

“(b) The report rendered to the appropriate state agency shall consist of the name of the policyholder, or if the policyholder is a professional corporation or professional association, the name of the physician or physicians against whom the claim was made, the name of the claimant, a summary of the allegations made in the lawsuit, the injuries incurred by the claimant and the terms of the judgment or settlement.

“(c) The report rendered pursuant to the requirements of this section, and any and all information, interviews, reports, statements, memorandum, or other documents produced by the licensing board as a result of any investigation of the subject matter of the report are declared to be privileged and confidential. All such records, reports, proceedings or other documents and any findings, conclusions, recommendations or actions of the licensing board shall be confidential and shall not be public records nor available for court subpoena or for discovery proceedings. Nothing contained

herein shall apply to records made in the regular course of business of a physician, hospital or other health care provider and information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in civil proceedings merely because they were presented to or considered by the licensing board.

“(d) The failure to make the reports required by this section within the time periods which are provided shall be punishable under section 27-1-12.”

Section 2. Section 34-24-56, Code of Alabama 1975, is hereby amended to read as follows:

“§34-24-56.

“(a) Every physician or surgeon who holds a license, certificate or other similar authority issued under the provisions of this article and every professional corporation or professional association of a physician or surgeon shall, during the first 30 days of each calendar year, report to the state board of medical examiners any final judgment rendered against such physician, surgeon, or the professional corporation or professional association of any such physician or surgeon during the preceding year, or any settlement in or out of court during the preceding year, resulting from a claim or action for damages for personal injuries caused by an error, omission or negligence in the performance of medical professional services, or in the performance of medical professional services without consent.

“(b) The report rendered under this section shall include the name of the physician or surgeon against whom the claim was made or asserted, the name of the claimant, a summary of the allegations made, the injuries incurred by the claimant, and the terms of the judgment or settlement. In the event that the judgment or settlement is entered against a professional corporation or a professional association, the report shall also include the name of the physician or physicians employed by or rendering medical services on behalf of the corporation against whom the claim was made or asserted.

“(c) The failure to make the report required by this section shall constitute grounds for the imposition of disciplinary sanctions by the medical licensure commission against the license of the physician or surgeon responsible for making such report. Those sanctions may include suspension or revocation or such other sanctions as may be authorized under Section 34-24-361(h) and Section 34-24-381. In the case of a judgment or a settlement entered against a professional corporation or a professional association, each physician owning shares of the voting stock of a professional corporation and each physician member of a professional association shall be individually

and jointly responsible for insuring that the report is rendered on behalf of the corporation or association.”

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:53 P.M.

Act No. 91-664

S. 508 — Senator Langford

AN ACT

To provide further for the investment of the public employees' individual retirement account fund; and to amend Section 36-27A-4 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-27A-4, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27A-4.

“All investments shall be made pursuant to the same authority and restrictions that govern the investment of funds of the retirement systems of Alabama.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:54 P.M.

Act No. 91-665

S. 684 — Senator Bedsole

AN ACT

Relating to Class 2 municipalities; to exempt such municipalities from the payment of any and all oil, gasoline and diesel fuel taxes of any nature whatsoever.

Be It Enacted by the Legislature of Alabama:

Section 1. All Class 2 municipalities of this state shall be exempt from the payment of any and all oil, gasoline and diesel fuel taxes of any nature whatsoever, whether state, county or municipal.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:55 P.M.

Act No. 91-666

S. 333 — Senator B. Smith

AN ACT

To amend Sections 35-15-1, 35-15-2 and 35-15-3 of the Code of Alabama 1975, relating to the duty of care owed persons on premises for sporting or recreational purposes so as to provide further that sporting or recreational activities include caving (exploring caves) and rock climbing.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 35-15-1, 35-15-2 and 35-15-3 of the Code of Alabama 1975, are hereby amended to read as follows:

“§35-15-1.

“An owner, lessee or occupant of premises owes no duty of care to keep such premises safe for entry and use by others for hunting, fishing, trapping, camping, water sports, hiking, boating, sight-seeing, caving, climbing, rappelling or other recreational purposes or to give any warning of hazardous conditions, use of structures or activities on such premises to persons entering for the above-stated purposes, except as provided in section 35-15-3.”

“§35-15-2.

“An owner, lessee or occupant of premises who gives permission to another to hunt, fish, trap, camp, hike, sight-see, cave, climb, rappel or engage in other sporting or recreational activities upon such premises does not thereby extend any assurance that the premises are safe for such purpose nor constitute the person to whom permission has been granted the legal status of an invitee to whom a duty of care is owed or assume responsibility for or incur liability for any injury to person or property caused by an act of such person to whom permission has been granted, except as provided in section 35-15-4.”

“§35-15-3.

“This chapter does not limit the liability which otherwise exists for wilful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp, hike,

cave, climb, rappel or sight-see was granted for commercial enterprise for profit; or for injury caused by acts of persons to whom permission to hunt, fish, trap, camp, hike or sight-see was granted to third persons as to whom the person granting permission, or the owner, lessee or occupant of the premises owed a duty to keep the premises safe or to warn of danger.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 2:56 P.M.

Act No. 91-667

S. 432 — Senators Dixon, Hale, Ellis, Lipscomb, Owens, Barron, Foshee, Preuitt, Denton, Mitchell, Floyd, Bailey, Waggoner, Bolling, Bedsole, Windom and deGraffenried

AN ACT

To provide for the organization of a public corporation to be known as the Alabama International Airport Authority; to provide for the appointment of the members of the authority; to designate the officers and members of the board of directors; to provide that the state treasurer shall be custodian of the funds of the authority; to prescribe the powers of the authority including the power of eminent domain, the power to assess and collect fines, the power to appoint police officers, and the power to issue bonds or notes and to use the proceeds for any of its corporate purposes; to provide that such bonds or notes may be payable from one or more specified sources; to provide for the form of such bonds; to authorize the authority to issue refunding bonds; to provide that bonds issued or contracts entered into by the authority shall not create a debt or obligation of the state or any of its subdivisions unless so provided by amendment to the state constitution; to provide for the publication of notice of any resolution by the authority for the issuance of bonds and specifying a time after such publication in which actions and defenses may be asserted against said bonds; to provide that the authority may accept and expend federal, state, county, municipal, or other moneys made available to it to accomplish its corporate purposes; to provide that no civil action shall be brought or maintained against the authority or any of its directors for the negligence of the authority, its directors, or any of its agents, servants or employees and to provide for exceptions; to provide that any political subdivision, public corporation, or instrumentality of the state may aid and cooperate with the authority; to provide that the bonds of the authority shall be legal investments for the state, all public officers, municipal corporations, political subdivisions, public corporations, public bodies, financial institutions, insurance companies and fiduciaries; to exempt the authority, its bonds, its income and its property from all state, county and municipal taxation; to exempt the authority from all laws from which airport authorities organized pursuant to article

2 of chapter 3 of Title 4, Code of Alabama 1975, are exempt; to provide the authority with zoning powers; to provide conditions on the annexation of the authority's airports, airport facilities, other facilities and properties; to provide for the sale and distribution of alcoholic beverages and the regulation and control thereof within the authority's main airport terminal at the authority's major airport as defined in Section 5(a) and to provide to whom the airport liquor license shall be granted; to provide that authority employees shall participate in the state employees' retirement system; to provide for the disposal of lost money or property found on authority property; to provide for the regulation of parking on authority property; to provide for the dissolution of the authority; to provide for the sunset terms of the Alabama International Authority; and to create a Legislative Oversight Committee.

Be It Enacted by the Legislature of Alabama:

Section 1. When used in this act, unless the context plainly indicates otherwise, the present tense shall include the future tense, the singular shall include the plural, the plural shall include the singular and the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) **AIRCRAFT.** Any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for use primarily as safety equipment.

(2) **AIRPORT.** Any area of land or water which is used, or intended for use, for the landing, take-off, storage, parking or dispersal of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings, facilities or rights-of-way, together with all airport buildings, structures and facilities located thereon.

(3) **AIRPORT BUILDING.** Any building used or to be used in connection with the construction, enlargement, development, maintenance or operation of an airport or heliport or in connection with the exercise of any power of the authority.

(4) **AIRPORT FACILITY.** Any building, structure, land, right-of-way, equipment or instrumentality used or to be used in connection with the construction, enlargement, development, maintenance or operation of an airport or heliport or in connection with the exercise of any power of the authority.

(5) **AIR NAVIGATION FACILITY.** Any facility used in, available for use in, or designed for use in aid of, air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking-off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(6) **AUTHORITY.** The public corporation organized pursuant to the provisions of this act.

(7) **BOARD.** The board of directors of the authority.

(8) **BOND.** Any bond authorized to be issued pursuant to the provisions of this act.

(9) **COUNTY.** Any of the 67 counties of the state.

(10) **DIRECTOR.** A member of the board of directors of the authority.

(11) **FAA.** The Federal Aviation Administration.

(12) **GOVERNMENT SECURITIES.** Any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

(13) **HELIPORT.** An airport designed primarily for use by helicopters.

(14) **INDENTURE.** A mortgage, an indenture of mortgage, deed of trust, trust agreement or trust indenture executed by the authority as security for bonds.

(15) **MUNICIPALITY.** Any of the incorporated municipal corporations of the state, whether classified as city or town.

(16) **OTHER FACILITY.** Any land, right in land, building, structure, machinery, equipment or facility useful for or in connection with any type of transportation system, project, service or facility, or any housing or residential project or facility, or any educational project or facility, or any stadium, coliseum, fair ground, exhibition or athletic building or any other recreational facility, or any one or more or all of the foregoing.

(17) **PERMITTED INVESTMENTS.**

a. Government securities;

b. Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives, Federal Intermediate Credit Banks, Federal Financing Bank, Federal Home Loan Banks, Federal Farm Credit Bank, Export-Import Bank of the United States, Federal Land Banks, Farmers Home Administration or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof;

c. Bonds, notes, pass through securities or other evidences of indebtedness of Government National Mortgage Association and participation certificates of Federal Home Loan Mortgage Corporation;

d. Full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service;

e. Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

f. Time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation, provided that, to the extent such time deposits are not covered by federal deposit insurance, such time deposits (including interest thereon) are fully secured by a pledge of obligations described in paragraphs a, b, c, and e above, which at all times have a market value (exclusive of accrued interest) not less than the amount of such bank time deposits required to be so secured and which meet the greater of 100% collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings;

g. Repurchase agreements for obligations of the type specified in paragraphs a, b, c, and e above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the purchase price of such repurchase agreements, which are held by a depository satisfactory to the State Treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100% collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; and

h. Uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

i. S.E.C. registered, open-ended mutual funds whose portfolios consist of securities or obligations of the type specified in clauses a, b, c, d, e, and f above, provided that no sales load charge may be added to the purchase price or deducted from the redemption price of such mutual funds.

(18) STATE. The state of Alabama.

(19) AUTHORITY'S MAIN AIRPORT TERMINAL. The main terminal located at the airport which has the longest runway and is called the authority's major airport as defined in Section 5(a).

Section 2. Any nine individual citizens of the state selected for such purpose pursuant to this section may become a public corporation with the powers hereinafter provided by proceeding according to the provisions of Section 3 of this act. The nine individual citizens shall be selected as follows:

(1) Three shall be appointed by the governor;

(2) One shall be appointed by the lieutenant governor;

(3) One shall be appointed by the speaker of the house of representatives;

(4) One shall be appointed by the Mayor of the City of Birmingham from the members of the board of directors of the Birmingham Airport Authority;

(5) One shall be appointed by the Mayor of the City of Mobile from the members of the board of directors of the Mobile Airport Authority;

(6) One shall be appointed by the Mayor of the City of Montgomery from the members of the board of directors of the Montgomery Airport Authority;

(7) One shall be appointed by the Mayor of the City of Huntsville from the members of the board of directors of the Huntsville Airport Authority; and

(8) One shall be appointed by the mayor of the City of Dothan from the members of the board of directors of the Dothan Airport Authority.

Section 3. To become a corporation, the nine citizens selected pursuant to Section 2 hereof shall present to the secretary of state an application signed by them which shall set forth:

(1) The name and residence of each of the applicants, together with a certified copy of all documents evidencing each applicant's selection pursuant to Section 2 hereof;

(2) The name of the proposed corporation, which shall be the "Alabama International Airport Authority";

(3) The location of the principal office of the proposed corporation;

(4) The purposes of the proposed corporation, which shall be, among others, to plan, acquire, construct, develop, improve, equip,

own, operate, administer and manage any and all types of airports, airport buildings, airport facilities, air navigation facilities, heliports and other facilities and air or other transportation services in, to and from the state, to make available the benefits thereof in the widest economic manner, thereby promoting the general welfare and increasing commerce and prosperity, to promote the public welfare and national security, to serve public interest, convenience, and necessity, to promote air navigation and transportation, international, national, state, and local, in and through this state, to promote the efficient, safe, and economical handling of air commerce, to assure the inclusion of this state in national and international programs of air transportation, to develop the full potentialities of the state as an aviation center and to carry out the duties and powers imposed upon or vested in the authority by this act; and

(5) Any other matter relating to the incorporation which the applicants may choose to insert and which is not inconsistent with this act.

The application shall be subscribed and sworn to by each of the applicants before an officer authorized to take acknowledgments to deeds. The secretary of state shall examine the application and if he finds that it substantially complies with the requirements of this section of this act, he shall receive, file and record it in an appropriate book of records in his office.

Section 4. When the application has been made, filed and recorded as herein provided, the applicants shall constitute a public corporation under the name proposed in the application. The secretary of state shall make and issue to the applicants a certificate of incorporation under the great seal of the state and shall record the certificate with the application. No fees or compensation shall be paid to the secretary of state for any service rendered or work performed in connection with the authority, its incorporation, dissolution or records.

Section 5. (a) The applicants named in the application and their respective successors in office shall constitute nine of the ten members of the authority. The tenth member of the authority and his or her successors in office shall be appointed by the appointing county official of the county in which the authority's major airport is located, provided that if the authority's major airport is located in more than one county, the appointing county official of each county in which any part of said airport is located shall alternate or rotate making such appointment. In such event, the appointing county official of the county containing the largest number of square feet of said airport shall make the appointment for the initial term, the official of the county containing the next largest

number of square feet shall make the appointment for the next term and so on with the order of such appointments being determined by the number of square feet of said airport located in each county. The appointing county official of the county shall be the probate judge unless he is not a member of the governing body of the county, in which event the chairman of the governing body shall be the appointing county official. The authority's major airport shall be the airport owned, operated or controlled by the authority which has a published instrument approach procedure or facilities for an instrument approach procedure, and if the authority owns, operates or controls more than one airport which has a published instrument approach procedure or facilities therefor, then the one thereof which has the longest runway shall be the authority's major airport. For purposes of this subsection, an airport will be considered as having facilities for an instrument approach procedure and such runways, will be considered as being owned, operated or controlled by the authority and will be considered as being located in a county, if and when such facilities or runways, such ownership, operation or control and such location are shown or reflected on the airport's master plan or an airport layout plan submitted to the FAA Airport District Office or are reflected in a notice or proposal submitted to the FAA. Until such time as the tenth member of the authority can be appointed as aforesaid, the other nine members of the authority shall constitute the full membership of the authority.

(b) At the time of the initial appointment by the governor of three of the individual citizens to incorporate the authority pursuant to Section 4 hereof, the governor shall designate one of such persons to serve as a member of the authority for an initial term of two years, one to serve an initial term of four years, and one to serve an initial term of six years. Thereafter, each succeeding appointment of a member of the authority by the governor shall be for a term of six years. The persons appointed by the lieutenant governor and the speaker of the house of representatives to be two of the individual citizens to incorporate the authority pursuant to Section 4 hereof shall serve as members of the authority for an initial term of six years. Thereafter, each succeeding appointment of a member of the authority by the lieutenant governor or the speaker of the house of representatives shall also be for a term of six years. The member of the board of directors of the Birmingham Airport Authority selected by the Mayor of the City of Birmingham to be one of the individual citizens to incorporate the authority pursuant to Section 4 hereof shall serve as a member of the authority for an initial term of four years. Thereafter, each succeeding selection of a member of the authority by the Mayor of the City of Birmingham from the board of directors of the Birmingham

Airport Authority shall be for a term of six years. The member of the board of directors of the Mobile Airport Authority selected by the Mayor of the City of Mobile to be one of the individual citizens to incorporate the authority pursuant to Section 4 hereof shall serve as a member of the authority for an initial term of three years. Thereafter, each succeeding selection of a member of the authority by the Mayor of the City of Mobile from the board of directors of the Mobile Airport Authority shall be for a term of four years. The member of the board of directors of the Montgomery Airport Authority selected by the Mayor of the City of Montgomery to be one of the individual citizens to incorporate the authority pursuant to Section 4 hereof shall serve as a member of the authority for an initial term of two years. Thereafter, each succeeding selection of a member of the authority by the Mayor of the City of Montgomery from the board of directors of the Montgomery Airport Authority shall be for a term of four years. The member of the board of directors of the Huntsville Airport Authority selected by the Mayor of the City of Huntsville to be one of the individual citizens to incorporate the authority pursuant to Section 4 hereof shall serve as a member of the authority for an initial term of four years. Thereafter, each succeeding selection of a member of the authority by the Mayor of the City of Huntsville from the board of directors of the Huntsville Airport Authority shall be for a term of four years. The member of the board of directors of the Dothan Airport Authority selected by the Mayor of the City of Dothan to be one of the individual citizens to incorporate the authority pursuant to Section 4 hereof shall serve as a member of the authority for an initial term of four years. Thereafter, each succeeding selection of a member of the authority by the Mayor of the City of Dothan from the board of directors of the Dothan Airport Authority shall be for a term of four years. The member of the authority appointed by an appointing county official shall serve for an initial term of two years. Thereafter, each succeeding appointment of a member of the authority by an appointing county official shall be for a term of six years.

(c) The members of the authority shall constitute all the members of the board of directors of the authority, which shall be the **governing body of the authority**. Upon the expiration of the term of office of any member of the authority or in the event any member of the authority ceases to be a member of the authority, by reason of death, resignation, removal of his or her residence from the state of Alabama or for any other reason, then the same officer, official or authority who originally appointed or selected such member shall appoint or select a successor in office to take his or her place as a member of the authority. If at any time the member of the authority selected by the Mayor of the City of Birmingham from the

Birmingham Airport Authority Board of Directors ceases to be a member of said board, he or she shall also cease to be a member of the authority and the Mayor of the City of Birmingham shall select from the members of the Birmingham Airport Authority Board of Directors a successor in office to take his or her place as a member of the authority. If at any time the member of the authority selected from either the Huntsville, Mobile or Montgomery Airport Authorities' Board of Directors ceases to be a member of said board, he or she shall also cease to be a member of the authority and the respective mayor shall select from the members of the respective Airport Authority Board of Directors a successor in office to take his or her place as a member of the authority. In the event any member of the authority ceases to be a member of the authority prior to the expiration of his or her term of office, his or her successor in office as a member of the authority shall serve for the unexpired term of such office. If the term of office of any member of the authority shall expire prior to the appointment of his or her successor, such member shall continue to serve until his or her successor is appointed and qualified. The members of the authority shall be eligible to succeed themselves. No member, officer, director or employee of the authority shall be personally liable for any debt, obligation or liability of the authority or the state.

(d) A majority of the directors shall constitute a quorum of the board for the transaction of business, but any meeting of the board may be adjourned from time to time by a majority of the directors present or may be so adjourned by a single director if such director is the only director present at such meeting. No vacancy in the membership of the board shall impair the right of a quorum of the board to exercise all the powers and duties of the authority. The board shall hold an annual meeting and such other regular meetings as may be provided in the bylaws of the authority, and the board may hold other meetings at any time from time to time; provided, that upon (1) call of the chairman of the authority or any two directors and (2) at least five days written notice to each of the members, a special meeting of the board must be held. Any matter on which the board is authorized to act may be acted upon at any regular, special or called meeting. At the request of any director, the vote on any question before the board shall be taken by yeas and nays and entered upon the record.

(e) All proceedings of the board shall be reduced to writing by the secretary of the authority, recorded in a well-bound book and open to each director and to the public at all times. Copies of such proceedings, when certified by the secretary of the authority under its seal, shall be received in all courts as evidence of the matters and things therein certified.

(f) Each director shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. Each director may also be compensated by the authority in an amount authorized by the bylaws and approved by the State Treasurer and the Legislative Oversight Committee.

(g) Any director of the authority may be impeached and removed from office in the same manner and on the same grounds provided by Section 175 of the Constitution of Alabama and the general laws of the state for impeachment and removal of the officers mentioned in said Section 175.

(h) The officers of the authority shall consist of a chairman, a vice-chairman, a secretary, a treasurer and such other officers as the board shall deem necessary to accomplish the purposes for which the authority was organized. The chairman and vice-chairman shall be elected by the board from its membership, except that no member presently serving on an existing airport authority or board may be elected to the chairman or vice-chairman position, but neither the secretary, the treasurer nor any of the other officers of the authority need be a member of the board of directors. The chairman and vice-chairman of the authority shall be elected by the board for a term of one year. The state treasurer shall be the treasurer of the authority. The state treasurer shall act as custodian of the funds of the authority and shall pay the principal of and the interest and premium (if any) on the bonds of the authority from the sources hereinafter provided. The state treasurer shall act as paying agent with respect to any series of bonds issued under this act. The secretary and the other officers of the authority shall be elected by the board for such term as it deems advisable. The board shall have also the authority to employ all personnel as it deems necessary and to fix the terms and conditions of their employment. The duties of the chairman, vice-chairman, secretary and treasurer shall be such as are customarily performed by such officers and as may be prescribed in the bylaws or by the board. The duties of any other officer of the authority shall be such as are from time to time prescribed by the board.

Section 6. The authority shall have the following powers among others specified in this act, together with all powers incidental thereto or necessary to the discharge thereof in corporate form.

(1) To have succession by its corporate name for the duration of time (which may be in perpetuity) specified in its certificate of incorporation;

(2) To sue and be sued in its own name in civil actions.

(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

(4) To adopt and alter bylaws for the regulation and conduct of its affairs and business;

(5) To acquire, receive, take and hold, whether by purchase, option to purchase, gift, lease, devise or otherwise, property of every description, whether real, personal or mixed, whether in one or more counties and whether within or without the corporate limits of any municipality, and to manage said property and to develop any property and to sell, exchange, lease or grant an option to purchase any property (whether developed or undeveloped) owned, leased or controlled by it;

(6) To make, enter into, execute and perform such contracts, agreements, leases and other instruments and to take such other action as may be necessary or convenient to accomplish any purpose for which the authority was organized or the exercise of any power granted hereunder;

(7) To plan, establish, develop, acquire, purchase, lease, construct, reconstruct, enlarge, improve, maintain, equip, operate, regulate and protect airports and air navigation facilities, whether in one or more counties and whether within or without the corporate limits of any municipality, including the acquisition, construction, installation, equipment, maintenance and operation at or in connection with or in furtherance of the use of such airports of sanitary and storm sewage systems and water, electric and gas systems, buildings, hangars and other facilities for airlines and the servicing of aircraft or for the comfort, use and accommodation of air travelers and the purchase and sale of such supplies, goods and commodities as are incident to the operation of its airport properties;

(8) To construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, repair and operate heliports, aerial aircraft (by whatever name such may be known) landing, loading or storage areas and transportation terminals, whether in one or more counties and whether within or without the corporate limits of any municipality;

(9) To construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain and repair buildings, structures and facilities suitable for use as manufacturing plants, industrial plants, retail shopping areas or centers, parks, exhibits or exhibitions or for the conduct of any lawful business, at, upon or adjacent to any airport, heliport or aircraft landing area owned or operated by such authority, whether in one or more counties and whether within or without the corporate limits of any municipality, and to sell, exchange, grant an option to purchase, lease or let such buildings, structures and facilities or any one or more of them to such tenant or tenants for such term or terms, at such compensation or

rental and subject to such provisions, limitations and conditions as the authority may require or approve;

(10) To furnish or supply upon any airport, heliport or aircraft landing area or other property owned or operated by or under the jurisdiction of the authority, for reward or compensation, goods, commodities, space, facilities and services, including, without limiting the generality of the foregoing, food, lodging, shelter, lawful drinks, confections, reading matter, oil, gasoline, motors and aircraft, motor and aircraft parts and equipment, space in buildings, space for buildings and structures, parking space for aircraft and automobiles and the services of mechanics, instructors and hostlers;

(11) To confer upon individuals, firms, corporations or companies for reward or compensation the privilege or concession of supplying upon any airport, heliport or aircraft landing area owned or operated by or under the jurisdiction of the authority all or any part of the goods, commodities, things, services and facilities authorized to be supplied by subsection (10) of this section;

(12) To acquire, by eminent domain and otherwise, establish, construct, expand, own, control, equip, improve, maintain, operate and regulate satellite airports or landing fields for the use of aircraft in the state, whether in one or more counties and whether within or without the corporate limits of any municipality;

(13) To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports, air navigation facilities and other facilities, whether in one or more counties and whether within or without the corporate limits of any municipality; provided, however, that the authority shall not acquire or take over any airport or air navigation facility owned or controlled by any county, municipality, public corporation, public authority or public agency of the state, or any one or more thereof, without the consent of such county, municipality, public corporation, public authority or public agency;

(14) To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, property which may be used or useful for educational facilities, to establish, construct, own, maintain, operate, improve, expand, equip, control and regulate schools, institutions of higher learning and other educational facilities upon or adjacent to the properties of the authority and to sell, lease or donate such educational properties;

(15) To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, property which has been or may be used or useful for housing, apartments and other residential buildings, structures, complexes and projects, to establish, construct, own, maintain, operate, improve, expand, equip, control

and regulate such housing and residential facilities upon or adjacent to the properties of the authority and to sell, lease or donate such properties;

(16) To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, to establish, expand, own, control, equip, improve, maintain, operate, manage and regulate any and all types of transportation facilities and services in, to or from the state, including, but not limited to, rail systems, railroads, spur tracks and other railway facilities and equipment, mass transportation facilities, bus systems, buses, intrastate airlines and other facilities, systems or services for any mode of transportation, and to sell, lease or donate such properties;

(17) To acquire, by purchase, gift, devise, lease or otherwise, and to operate docks, wharves, maritime warehouses, machinery and equipment and port facilities;

(18) Subject to the provisions of this act, to borrow money and issue its bonds in evidence thereof to provide funds for any corporate function, use or purpose;

(19) As security for payment of the principal of and interest and premium (if any) on its bonds and any agreements made in connection therewith, to pledge, mortgage, assign or grant security interests in any or all of

a. The funds, revenues or receipts from which its bonds may be made payable or

b. Its properties or any part or parts thereof (whether then owned or thereafter acquired) and to arrange for and provide such additional security for its bonds, including, but not limited to, letters of credit, bond insurance policies, surety bonds, all as the board shall determine to be necessary or desirable;

(20) To borrow money on a short-term basis and to issue its temporary bonds or notes in evidence thereof for any corporate function, use or purpose, which bonds or notes shall mature not later than twenty-four (24) months from their date of issuance, to provide for the payment of the same from the principal proceeds of the sale of its long-term bonds, and to mortgage, assign and pledge, as security for payment of the principal of and interest on any such temporary bonds or notes and any agreements made in connection therewith, any funds, revenues, receipts or properties it is authorized to pledge, mortgage or assign as security for its bonds under subdivision (19) of this section;

(21) To assume obligations secured by a lien on or payable out of or secured by a pledge of the revenues, rents, receipts and funds

from any air transportation facilities, air navigation facilities or other facilities, or any part thereof, that may be acquired by the authority;

(22) To exercise the power of eminent domain in the manner and subject to the provisions of Title 18 of the Code of Alabama 1975 with respect to any property, real, personal or mixed, whether in one or more counties and whether within or without the corporate limits of any municipality, including air space, navigation easements, structures and obstructions to flights and property already devoted to public use, that may be reasonably necessary for the construction, extension, maintenance, operation, protection, enlargement, improvement or preservation of an airport or airport facility, or sanitary or storm sewage systems or water, electric and gas systems, upon, adjacent to, in connection with or in furtherance of the use of any airport, heliport or aircraft landing area or other properties owned or operated by the authority;

(23) To appoint, employ, contract with and provide for compensation of officers, employees and agents, including engineers, attorneys, consultants, fiscal advisers and such other employees as the business of the authority may require, including the power to fix working conditions and other conditions of employment by general rule and, at its option, to provide a system of disability pay, retirement compensation and pensions, or any of them, and to hire and fire servants, agents, employees and officers at will;

(24) To fix, establish, collect and alter landing fees, tolls, rents, passenger facility charges, access fees and other charges with respect to any airport, heliport, landing area, air navigation facility or other facility, building, structure or property owned or controlled by the authority or any service provided pursuant thereto, or any benefit derived therefrom;

(25) To make and enforce reasonable rules and regulations governing the use of any airport, heliport, landing area or airport facility or other facility owned or controlled by the authority;

(26) To provide for such insurance, including but without limitation to, use and occupancy insurance, as the board may deem advisable;

(27) To invest any funds of the authority that the board may determine are not presently needed for its corporate purposes in any permitted investments or in any obligations in which municipal or county funds are authorized to be invested pursuant to Section 11-81-21, Code of Alabama 1975;

(28) To cooperate with the United States of America, the state or any county, city, town, public corporation, agency, department

or political subdivision of the state or the United States of America, and to make such contracts with them or any of them as the board may deem advisable to accomplish the purposes for which the authority was established;

(29) To sell, exchange and convey, including the granting of options to acquire, any or all of its properties that may have become obsolete or worn out or that may no longer be needed or useful to the authority in connection with, or in the operation of the airport, heliport or other facility with respect to which they were acquired or of which they form a part, or that the board deems to be in furtherance of any purpose for which the authority was organized;

(30) To receive and accept grants for or in aid of the construction, extension, improvement, maintenance or operation of any airport, heliport or airport facility, air navigation facility or other facility from the United States of America or any agency thereof and from the state or any department or agency thereof and any political subdivision thereof, and to receive and accept money, property, labor or other things of value from any source whatever;

(31) To sell, donate and convey, with or without consideration, any of its properties to the state or any one or more counties, municipalities or public corporations organized and existing under the laws of the state which have the corporate power to operate the properties so conveyed and the property and income of which are not subject to taxes; provided, that any such conveyance shall not be made if it would constitute a violation of a provision of any then outstanding indenture to which the authority is a party;

(32) To purchase equipment and supplies necessary or convenient for the exercise of any power of the authority;

(33) To appoint, employ, contract with and provide for compensation of one or more suitable persons to act as police officers to keep off intruders and prevent trespass upon and damage to property owned by or under the jurisdiction of the authority. All such persons shall be charged with all the duties and invested with all the powers of police officers. Any police officer appointed pursuant to the provisions of this subdivision is a peace officer whose authority extends to any place in the state; provided, that the primary duty of any such police or peace officer shall be the enforcement of the law on property owned by or under the jurisdiction of the authority; and provided further, that any such police or peace officer shall not otherwise act as a peace officer in enforcing the law except:

a. When in pursuit of any offender or suspected offender who is charged with the commission of a crime while on premises owned by or under the jurisdiction of the authority, or

b. To make arrests otherwise lawful for crimes committed, or for which there is probable cause to believe have been committed, within his presence or within the boundaries of said property owned by or under the jurisdiction of the authority. The provisions of this subdivision granting powers to police officers employed by the authority are not intended to limit or abridge any powers heretofore granted to said officers by law, or to imply that such powers do not otherwise exist on the date of the enactment of this act, and the provisions of this subdivision of this section are, therefore, to be considered cumulative;

(34) To enter into a management agreement or agreements with any county or municipality in the state for the management by the authority of any airport, heliport, air navigation facility or other facility useful to the authority, whether in one or more counties and whether within or without the corporate limits of any municipality, upon such terms and conditions as may be mutually agreeable; and

(35) To assess and collect fines from any person, firm or corporation occupying, leasing or utilizing any part of an airport, airport facility or other facility or property owned by or under the jurisdiction of the authority in order to reimburse the authority for civil penalties levied by any government entity (including the FAA) if such penalties arise as the result of one or more acts or omissions of such person, firm or corporation.

Section 7. The authority is authorized to accept, receive, receipt for, disburse and expend federal, state, county or municipal moneys and other moneys, public or private, made available by donation, grant, appropriation or loan or any combination thereof, to accomplish, in whole or in part, any of the purposes of this act. All federal moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by the United States and as are not inconsistent with the laws of this state, and all state moneys accepted under this section shall be accepted and expended by the authority upon such terms and conditions as are prescribed by law. State moneys which the authority may receive include, but are not limited to, state appropriations, proceeds of bonds issued by the state, tax revenues and other state revenues.

Section 8. For the purpose of aiding and cooperating with the authority in the financing, funding, planning, development, undertaking, construction, extension, improvement or operation of airports, heliports and air navigation facilities and other facilities, the state (in such manner and upon such terms and conditions, with or without consideration, as may be prescribed by law) or any county, municipality or other political subdivision, public corporation,

agency or instrumentality of this state, (upon such terms and conditions, with or without consideration, as its governing body may determine) may, and each of them is hereby authorized and empowered to:

- (1) Donate, grant, appropriate or lend money to the authority;
- (2) Provide that all or a portion of any taxes, fees, or funds available or to become available to it for airport purposes or any other purposes (unless required by law to be used for nonairport purposes) shall be transferred or paid directly to the authority as such taxes, fees or funds become available to it;
- (3) Cause water, sewer, electric, gas or drainage facilities or any other facilities which it is empowered to provide to be furnished adjacent to or in connection with such airports, heliports or air navigation facilities or other facilities;
- (4) Donate, sell, convey, transfer or lease to the authority any land, property, franchise, grant, easement, license or lease which it may own;
- (5) Donate, sell, convey or lease any airport, airport property, heliport or heliport property or any interest in any thereof owned by it to the authority;
- (6) Donate, transfer, assign, sell or convey to the authority any rights, title or interest which it may have in any lease, contract, agreement, license or property;
- (7) Furnish, dedicate, close, pave, repair, install, grade, regrade, plan or replan streets, roads, roadways and walks from established streets or roads to such airports, heliports or air navigation facilities or abutting or adjacent to such airports, heliports or air navigation facilities;
- (8) Except as limited by the Constitution of Alabama of 1901, as amended, borrow money for the purpose of providing funds to the authority and paying all costs, fees and expenses agreed upon in connection with any such loans, and it may, without an election, issue evidences of its indebtedness in the form of interest-bearing warrants, notes or bills payable, maturing at such time or times as it may determine, not exceeding 20 years from the date of issue, and, as security for any such evidences of indebtedness and as a part of the contract whereunder any money is borrowed, it may agree to annually levy, collect and apply to the payment thereof, so long as the same or any part thereof remains unpaid, any tax or license which it is empowered or authorized on the date of such contract to levy and collect (unless such tax or license is specifically prohibited by law from being so used);

(9) Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction or operation of airports, heliports and air navigation facilities and other facilities; and

(10) Furnish at the request of the authority fire and air crash equipment of all kinds and personnel to properly operate such equipment at any airport, heliport or aircraft landing area owned, operated or under the jurisdiction of the authority.

Section 9. The authority shall have the power and is hereby authorized at any time and from time to time to issue and sell its bonds for any of its corporate functions, uses or purposes, which bonds may be in the form of interest-bearing bonds or noninterest-bearing bonds. The principal of and the interest and premium (if any) on any such bonds may be payable from one or more specified sources, including:

a. The revenues derived by the authority from the operation of any or all of its airports, heliports, airport facilities, other facilities and property and

b. Any or all moneys, funds, revenues, appropriations, taxes, proceeds or properties authorized to be appropriated, donated, granted, transferred, conveyed, sold, loaned, assigned or given to the authority by Section 8 of this act or any other law (unless such use thereof is otherwise specifically prohibited by law), and such bonds may be secured by a pledge of any or all thereof. Bonds issued or contracts entered into by the authority shall be obligations of the authority and shall only constitute or create an obligation or debt of the state or any county or municipality if, and to the extent, so provided in such amendment or amendments to the Constitution of Alabama of 1901, as may be adopted and ratified after May 1, 1992. The authority is hereby vested with full authority, except as limited herein and by the constitution, as amended, to provide for the terms of its bonds, to provide for and limit the sources of payment for said bonds and to provide for the sale and issuance thereof. Bonds of the authority may be issued at any time and from time to time in one or more series, may be in such form and denominations, may be of such tenor, may be payable in such instalments and at such time or times, not exceeding 40 years from their date, may be payable at such place or places whether within or without the state and may, if issued as interest-bearing bonds, bear interest at such rate or rates, fixed or variable, whether exceeding the rates prescribed by any law as usurious or not, payable and evidenced in such manner as shall not be inconsistent with the provisions of this act and as may be provided in the proceedings of the board wherein the bonds shall be authorized to be issued. At the authority's election, any bond may be

made subject to redemption at the option of the authority on such dates at such price or prices and after such notice or notices and on such terms and conditions and in such manner as may be provided in the proceedings of the board wherein it is authorized to be issued. Bonds of the authority may be sold at public or private sale in such manner and from time to time as may be determined by the board. The authority may pay all reasonable expenses, premiums, fees and commissions that the board may deem necessary or advantageous in connection with the authorization, sale and issuance of its bonds. All bonds may contain a recital that they are issued pursuant to the provisions of this act, which recital shall be conclusive that they have been duly authorized pursuant to the provisions of this act. Neither a public hearing nor consent of the state department of finance shall be prerequisite to the issuance of bonds by any authority.

Section 10. Upon the adoption by the board of any resolution providing for the issuance of bonds, the authority may, in its discretion, cause to be published once a week for two consecutive weeks in a newspaper that is customarily published in this state not less than five days in each calendar week and distributed in the county in which is located the principal office of the authority, a notice in substantially the following form (the blanks being properly filled in) at the end of which there shall be printed the name and title of either the chairman or secretary of the authority: "The Alabama International Airport Authority, a public corporation of the State of Alabama, on the ____ day of _____, authorized the issuance of \$ _____ principal amount of revenue bonds of the said corporation for purposes authorized in the act of the legislature of Alabama under which the said corporation was organized. Any action or proceeding questioning the validity of the said bonds, or the pledge and any instruments securing such bonds, or the proceedings authorizing the same, must be commenced within 30 days after the first publication of this notice."

Any action or proceeding in any court to set aside or question the proceedings for the issuance of the bonds referred to in said notice or to contest the validity of any such bonds or the validity of the pledge and any instruments made to secure such bonds must be commenced within 30 days after the first publication of such notice. After the expiration of the said period, no right of action or defense questioning or attacking the validity of the said proceedings, the said bonds or the said pledge or instruments shall be asserted, nor shall the validity of the said proceedings, bonds, pledge or instruments be open to question in any court on any ground whatsoever except in an action commenced within such period.

Section 11. All bonds shall be signed by the chairman or vice-chairman and the secretary or treasurer of the authority and

the seal of the authority shall be affixed thereto; provided, that a facsimile of the signatures of both of the officers whose signatures will appear on the bonds may be imprinted or otherwise reproduced thereon in lieu of being manually signed if the proceedings in which the bonds are authorized to be issued provide for the manual authentication of such bonds by a trustee, registrar or paying agent or by named individuals who are employees of the state and who are assigned to the state department of finance or the office of the state treasurer; provided further, that a facsimile of the seal of the authority may be imprinted or otherwise reproduced on the bonds in lieu of being manually affixed thereto. Delivery of bonds so executed shall be valid notwithstanding any changes in officers or in the seal of the authority after the signing and sealing of the bonds.

Section 12. (a) In the discretion of the authority, any bonds may be issued under and secured by an indenture between the authority and a trustee. Said trustee may be a private person or corporation, including, but not limited to, any trust company or bank having trust powers, whether such bank or trust company is located within or without the state. In any such indenture or resolution providing for the issuance of bonds, the authority may pledge for payment of the principal of and the interest on such bonds any of its revenues, rents, income or funds from which its bonds may be made payable or to which its right then exists or may thereafter come into existence and may assign, as security for such payment, any of its leases, franchises, permits and contracts and, in any such indenture, the authority may mortgage any of its properties, including any that may be thereafter acquired by it. Any such pledge of revenues shall be valid and binding from the time it is made, and the revenues, rents, income or funds so pledged and thereafter received by the authority shall immediately become subject to the lien of such pledge without any physical delivery thereof or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether the parties have actual notice thereof, from the time a statement is filed as provided in the Uniform Commercial Code. Such notice need state only the date on which the resolution authorizing the issuance of the bonds was adopted by the board, the principal amount of bonds issued, a brief description of the revenues, rents, income or funds so pledged and a brief description of any property the revenues, rents, income or funds from which are so pledged. In any indenture or resolution authorizing the issuance of bonds and pledging for the benefit thereof any of its revenues, rents, income or funds, the authority shall have the power to include provisions customarily contained in instruments securing evidence of indebtedness, including, without limiting the generality

of the foregoing, provisions respecting the collection, segregation and application of any rental or other revenue due or to become due to the authority, the terms to be incorporated in any lease agreement respecting any property of the authority, the maintenance and insurance of any building or structure owned by the authority, the creation and maintenance of special funds from any revenue, rents, income or funds of the authority and the rights and remedies available in the event of default to the holder of the bonds or the trustee under the indenture as the board shall deem advisable and as shall not be in conflict with the provisions of this act. If there be any default by the authority in payment of the principal of or the interest on the bonds or in any of the agreements on the part of the authority that may be properly included in any indenture securing the bonds, any holder of any of the bonds or the trustee under any indenture, if so authorized in such indenture, may, in addition to any other remedies provided by this act or otherwise available, by civil action, mandamus or other proceedings enforce payment of such principal or interest and compel performance of all duties of the board and officers of the authority and shall be entitled as a matter of right and regardless of the sufficiency of any such security to the appointment of a receiver with all the powers of such receiver for the operation and maintenance of the property of the authority covered by such indenture and the collection, segregation and application of revenues therefrom. The indenture may also contain provisions restricting the individual rights of action of the holders of the bonds.

(b) A debt service reserve fund is authorized to be established and maintained in such an amount and under such conditions for any or all series of the bonds as may be determined by the authority in its resolution(s) relating to the bonds or in an indenture under which the bonds may be issued. The authority is authorized to make payments from bond proceeds or any other funds or revenues available to it (including any tax revenues pledged for the payment of the authority's bonds in excess of those required to meet current debt service on such bonds) into the debt service reserve fund. Income earned from the investment of moneys held in the debt service reserve fund may be used by the authority for any purpose designated by the authority that would constitute a permitted use of funds of the authority under this act. The authority is authorized to determine the conditions for the utilization of the debt service reserve fund (including earnings from the investment of such fund) in its resolution(s) relating to the bonds secured thereby or in an indenture under which the bonds may be issued, and by the terms of such resolution(s) or indenture, to dedicate and pledge such fund and the investment earnings therefrom to payment of debt service on the bonds.

Section 13. The proceeds derived from the sale of any of the authority's bonds, other than refunding bonds, shall be used for one or more of its corporate functions, uses or purposes, including to pay the cost of acquiring, constructing, improving, enlarging and equipping its airports, airport facilities, and other facilities or property, as may be specified in the proceedings in which the bonds are authorized to be issued. Such cost shall be deemed to include the following:

(1) The cost of any land forming a part of any such airports, facilities or property;

(2) The cost of labor, material and supplies used in any such construction, improvement or enlargement, including architects' and engineers' fees, and the cost of preparing contract documents and advertising for bids;

(3) The purchase price of and the cost of installing equipment for any such airports, facilities or property;

(4) The cost of landscaping the lands forming a part of any such airports, facilities or property and of constructing and installing roads, sidewalks, curbs, gutters, utilities and parking places in connection with any such airports, facilities or property;

(5) Legal, fiscal and recording fees and expenses incurred in connection with the authorization, sale and issuance of the bonds; and

(6) Interest on said bonds for a reasonable period prior to and during the time required for such construction and equipment and for not exceeding 18 months after completion of such construction and equipment.

If any of the proceeds derived from the sale of said bonds remains undisbursed after completion of such work and payment of all of the said costs and expenses, such balance shall be used for any of the authority's other corporate functions, uses or purposes or for retirement of the principal of the bonds of the same issue.

Section 14. (a) Any bonds issued by the authority under this act may from time to time thereafter be refunded by the issuance of refunding bonds of the authority. Any such refunding bonds may be issued whether the bonds to be refunded shall have then matured or shall thereafter mature, and such refunding may be effected either by sale of the refunding bonds and the application of the proceeds thereof to the payment or redemption of the bonds so refunded or by exchange of the refunding bonds for those to be refunded thereby. The holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable, or if they are called for redemption, prior to the date on which they may

be redeemed by the authority according to their terms. Any refunding bonds may be issued in such aggregate principal amount as the authority shall deem necessary to effect such refunding.

(b) The proceeds derived from any sale of refunding bonds remaining after payment of the expenses of their issuance shall be applied in accordance with the proceedings of the authority under which such refunding bonds are issued. Pending the application of said proceeds to the purchase, redemption or payment of such outstanding bonds, the said proceeds may be invested in permitted investments pursuant to a trust agreement providing for the future application of such proceeds to the purchase, redemption or payment of such outstanding bonds. Bonds refunded prior to their maturity with the proceeds of refunding bonds shall be deemed not outstanding if the authority, in the proceedings under which such refunding bonds are issued, establishes a trust fund consisting of cash or government securities, or both, sufficient to pay in accordance with the provisions of such trust fund when due, the entire principal of and the interest and premium (if any) on the refunded bonds; provided that such government securities shall not be subject to redemption prior to their maturities other than at the option of the holder thereof. Upon the establishment of such a trust fund, the refunded bonds shall no longer be deemed to be outstanding, shall no longer be secured by the funds or revenues pledged therefor, shall no longer be obligations of the authority, and shall be secured solely by and payable from the moneys and investments deposited in such trust fund.

Section 15. The state and all public officers, municipal corporations, political subdivisions, public corporations and public bodies, including the state employees' retirement system created pursuant to chapter 27 of Title 36, Code of Alabama 1975 and the teachers' retirement system created pursuant to chapter 25 of Title 16, Code of Alabama 1975, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any funds or moneys belonging to them or within their control in any bonds of the authority, and such bonds shall be authorized security for all public deposits, it being the purpose of this section to authorize any persons, firms, corporations, associations, political subdivisions, bodies, retirement systems and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such

bonds and that any such bonds shall be authorized security for all public deposits.

Section 16. Any trust fund, where the investment thereof is permitted or required by law, may be invested in bonds issued by the authority. Unless otherwise directed by a court having jurisdiction thereof or the document which is the source of authority, a trustee, executor, administrator, guardian or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust funds in the bonds of the authority.

Section 17. The bonds issued by the authority and the income therefrom shall be exempt from all taxation in the state. The authority and all its property and income shall be exempt from all state, county and municipal taxation of any nature, including ad valorem taxes, sales taxes, use taxes, excise taxes, privilege or license taxes, license fees or taxes and other state or local taxes or license fees, and it is the intent of the legislature to exempt the Alabama International Airport Authority from utility gross receipts taxes levied by article 3, chapter 21, Title 40 of the Code of Alabama 1975; provided, however, that these exemptions shall not be construed to exempt concessionaires, licensees, tenants, operators or lessees of the authority from the payment of any licenses or privilege or license taxes levied by the state or any county or municipality in the state. Any deeds or other documents whereby properties are conveyed by or to the authority, any indentures executed by the authority and any leases or mortgages made by or to the authority may be filed for record in the office of the judge of probate of any county without the payment of any tax or fees. In addition, the authority shall not be required to pay any tax resulting from the conversion of property qualified for assessment based on its current use value, with respect to either property conveyed to the authority or property sold or otherwise disposed of by the authority; provided, however, that this exemption shall not be construed to exempt from liability for such additional ad valorem taxes any person otherwise liable, under applicable provisions of law, for the payment of such taxes.

Section 18. (a) The authority shall be exempt from all of the same laws as airport authorities organized pursuant to article 2 of chapter 3 of Title 4, Code of Alabama 1975, which exemption shall include the exemption conferred by Section 4-3-60, Code of Alabama 1975, relating to, among others, the exemption from zoning laws, ordinances and regulations. The authority shall have the same zoning powers with respect to the zoning of airports owned, operated or controlled by the authority and the zoning of areas lying within a 10-nautical-mile radius of the geographical center of such airports as are conferred by Sections 4-6-1 through 4-6-15, Code of Alabama

1975, on counties and municipalities with respect to areas within their zoning jurisdictions. For purposes of chapter 6 of Title 4, Code of Alabama 1975, the zoning jurisdiction of the authority shall be the areas within airports owned, operated or controlled by the authority and other areas lying within a 10-nautical-mile radius of the geographical center of such airports. In the event that after this act becomes effective, chapter 6 of Title 4, Code of Alabama 1975, is amended or supplemented so as to broaden the zoning powers of counties or municipalities, or both, with respect to airports or areas within the vicinity of airports, the authority shall thereafter have the same zoning powers within its zoning jurisdiction as such counties or municipalities, or both, have within their zoning jurisdictions with respect to airport or areas within the vicinity thereof. No airport, airport facility or other facility or property owned, operated or controlled by the authority shall be annexed by any municipality pursuant to any provision of chapter 42 of Title 11, Code of Alabama 1975, or any other annexation law unless and until such annexation shall be approved by a majority vote of the board of the authority.

(b) In addition to the zoning powers conferred by subsection (a) of this section, the authority may adopt, administer and enforce compatible land use zoning regulations applicable to a controlled compatible land use area relating to an airport owned, operated or controlled by the authority. The authority by resolution may implement, in connection with airport compatible land use regulations, any federal law or rules controlling the use of land located adjacent to or in the immediate vicinity of its airports.

(c) For purposes of subsection (b) of this section, the following words and terms have the meaning hereby ascribed to them:

(1) **CENTERLINE.** A line extending through the midpoint of each end of a runway.

(2) **COMPATIBLE LAND USE.** A use of land adjacent to an airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft or such other definition adopted in either the approved master plan or the approved noise study for each airport as defined by FAA regulations or both when applicable.

(3) **CONTROLLED COMPATIBLE LAND USE AREA.** An area of land located outside airport boundaries and within a rectangle bounded by lines located no farther than two statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from each end of the clear zone of the paved surface of an instrument or primary runway.

(4) **INSTRUMENT RUNWAY.** An existing or planned runway for which an instrument landing procedure published by a defense agency of the federal government or the FAA exists or is planned.

(5) **PRIMARY RUNWAY.** An existing or planned paved runway, as shown in the official airport layout plan (ALP) of the airport on which a majority of the approaches to and departures from the airport occur.

(6) **RUNWAY.** A defined area of an airport prepared for the landing and taking off of aircraft along its length.

(7) **MASTER PLAN.** An airport master plan approved by the FAA.

(8) **NOISE STUDY.** An FAA approved noise control and land use compatibility study, or a Federal Aviation Regulation, Part 150 noise study, or any comparable subsequently approved program or study.

(d) For purposes of the provisions of:

(1) The act resulting from the enactment of House Bill 406 introduced at the 1991 Regular Session of the Alabama Legislature (whether such bill is enacted before or after this act) or

(2) Any other statute, now or hereafter enacted, which provides for airport zoning and the issuance of permits by the state aeronautics department for structures exceeding federal obstruction standards located near air traffic, the authority shall be deemed to be a political subdivision and its territorial limits shall be deemed to be the outer boundaries of airports owned, operated or controlled by the authority and the outer boundaries of other areas lying within a 10-nautical-mile radius of the geographical center of such airports.

Section 19. (a) In addition to the definitions prescribed in Section 1 of this act, as used in this section the following words and terms have the meaning hereby ascribed to them:

(1) **ABC LAW.** Chapters 3 and 3A, Title 28, Code of Alabama of 1975, which establish and govern the alcoholic beverage control board and provide for alcoholic beverage licensing.

(2) **ABC BOARD.** The alcoholic beverage control board.

(3) **SPECIAL RETAIL LIQUOR LICENSE.** The special retail license for which the ABC law provides.

(4) **AIRPORT LIQUOR LICENSE.** The license which this act provides for issuance to the authority.

Any word or term used in this section which is defined in the ABC law shall have the same meaning as that law ascribes to said word or term.

(b) Any other law to the contrary notwithstanding, the authority's main airport terminal as defined in Section 1 (19) shall be wet for purposes of Title 28, Code of Alabama 1975, and alcoholic beverages can be legally sold, distributed and consumed within the authority's main airport terminal at the authority's major airport as defined in Section 5(a). All of the provisions of Title 28 of the Code of Alabama 1975 relating to alcoholic beverages in wet counties, including chapters 3, 3A, 6 and 7, not in conflict with this act, shall be put into operation with respect to and effective within the authority's main airport terminal as defined in Section 1 (19).

(c) At the request of the authority, the ABC Board shall issue an airport liquor license to the authority, or at the request of the authority, to any one or more concessionaires, licensees, tenants, operators or lessees of the authority, where a "special retail liquor license" is otherwise authorized by law, provided that such an airport liquor license may be granted in wet or dry counties for location within the authority's main airport terminal at the authority's major airport as defined in Section 5(a), and further provided that in accordance with the provisions of subsection (d) of this section, the sale of alcoholic beverages pursuant to such an airport liquor license may be permitted at any time on any Sunday. Such an airport liquor license shall entitle the authority or such concessionaire, licensee, tenant, operator or lessee of the authority to purchase liquor from an Alabama liquor store, and subject to the provisions of the ABC law and the regulations made thereunder, not in conflict with this act, to keep and sell in the authority's main airport authority terminal at the authority's major airport as defined in Section 5(a) for consumption therein any such liquor and also any malt or brewed beverages or vinous beverages the holder of a special retail liquor license is entitled to keep and sell. Except as otherwise provided in this act, an airport liquor license shall be deemed to be a special retail liquor license, and to the extent not in conflict with this act, all of the provisions of the ABC law applicable to a special retail liquor license shall be applicable to an airport liquor license. The aforesaid concessionaires, licensees, tenants, operators or lessees of the authority who are authorized to sell or distribute alcoholic beverages in accordance with an airport liquor license shall be deemed to be the person to whom the airport liquor license is granted.

(d) When any liquor license is issued pursuant to this act, all other laws to the contrary notwithstanding, the board of the authority shall have the authority and the duty to determine and fix the days of the week, which may include Sunday, and the times when, and places where, alcoholic beverages may be sold in its main airport terminal as defined in Section 1 (19) and to fix other reasonable rules and regulations for the sale of alcoholic beverages therein.

(e) Except as otherwise provided in this act, the laws of the state and the regulations of the ABC Board shall apply to the authority and its concessionaires, licensees, tenants, operators or lessees in any of their operations under an airport liquor license.

Section 20. Employees of the authority shall participate in the employees' retirement system of Alabama, as defined in Section 36-27-2, Code of Alabama 1975, which is operated for the purpose of providing retirement allowances and other benefits for employees of the state. Notwithstanding the provisions of Section 36-27-26, Code of Alabama 1975, or any other law, employees of the authority shall be deemed to be employees of the state included in the membership of the retirement system as provided in Section 36-27-4, Code of Alabama 1975.

Section 21. All money or property found at an airport owned or controlled by the authority shall be reported or delivered by the finder to the airport lost and found, and when so delivered shall be held by the authority for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the authority. In the event of such establishment of title or right of custody, the money or property shall be delivered to the claimant by the authority. If within forty-five days no claimant establishes a right to the money or property, the money or property shall be returned to the person who delivered it to the airport lost and found; provided that if the person who delivered it to the airport lost and found fails to claim the money or property within thirty days after being notified by the authority, the authority shall deposit the money into the authority's treasury to the credit of the authority or shall dispose of the property by public auction. At least once annually, the authority shall place a notice in a newspaper of general circulation giving details as to time and place of the auction and giving notice to all persons interested or claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. On the day and at the place specified in the notice, all property for which no satisfactory proof of ownership is made shall be sold by auction by or under the direction of the authority.

If any property which is of a perishable nature or unreasonably expensive to keep or safeguard remains unclaimed at the airport, the authority may sell that property at public auction, at such time and after such notice as is reasonable under the circumstances. The authority shall immediately after the sale of any property deposit unto the authority's treasury all moneys received by the authority upon sale.

For the purpose of this section, notice by regular mail to the last known address of the person who delivered the money or property to the airport lost and found shall be deemed sufficient.

Section 22. The authority may make and enforce airport rules pertaining to vehicle parking at any airport owned or controlled by the authority by imposing fines not to exceed \$50 per violation or by removing the vehicle of the offender from the area within the airport, or both.

Section 23. The existence and functioning of the Alabama International Airport Authority, created and functioning pursuant to this act, is hereby terminated at such time that the state receives official notification of the approval by the Federal Aviation Administration of an Airport Master Plan as prepared and submitted by this authority.

Section 24. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 25. All laws or parts of law which conflict with this act are hereby repealed.

Section 26. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 3:00 P.M.

Act No. 91-668

S. 622 — Senator Figures

AN ACT

Relating to Mobile County; providing for the compensation and payment of additional salary for members of the county governing body, and further providing that all expense allowance shall be deemed to constitute salary compensation, effective upon the next term of office and upon the adoption of a resolution by the Mobile County Commission at an open public meeting.

Be It Enacted by the Legislature of Alabama:

Section 1. The members of the Mobile County Commission, the governing body of Mobile County, shall each receive an annual salary of \$57,000.00. Such compensation shall become effective at the beginning of the next term of said county commission or other like governing body. In addition thereto, all expense allowance payable to such members of the Mobile County Commission existing on the effective date of this act shall from that date until the expiration of the current

terms of office continue to be payable as an expense allowance; however, upon the new terms of office, said payments shall be deemed to constitute salary compensation for all purposes and the same shall continue to be paid thereafter as salary compensation. Said salary shall be paid in equal monthly installments from any funds in the county treasury available for that purpose, as provided by law.

Section 2. This act shall not become effective unless a resolution is adopted at an open public meeting by the Mobile County Commission which authorizes and ratifies the provisions of this act.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 3:01 P.M.

Act No. 91-669

S. 29 — Senator Bennett

AN ACT

To establish the Alabama Legislative Compensation Commission, its membership, expenses, powers and duties; and to provide that the commission's recommendations to the legislature for compensation shall be introduced by the third legislative day of the regular session of the reporting year and to provide that the commission's recommendations will establish the legislature's compensation effective on the first day of the following quadrennium upon adoption of such recommendations by a majority of both houses of the legislature during such regular session.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established the Alabama legislative compensation commission, hereinafter referred to as the "commission." The commission shall be comprised of one designee of the Lt. Governor, one designee of the Speaker of the House, the Chairman of the State Personnel Board, the President of the State Bar Association, and the Chairman of the Board, Alabama Public Affairs Research Council. Terms of the voting members will be for the balance of the quadrennium for which they are appointed to serve. With the exception of the first commission, all subsequent commissions shall be appointed by the end of the first year of each quadrennium. All five commission members must be appointed before the commission can meet and conduct business. Official

written notification of all appointments shall be made to the Secretary of State's office, and the date and time of receipt of such notification shall be duly recorded by the Secretary of State's office.

The initial members of the commission must be appointed within 120 days of the effective date of this act. A quorum of three members shall be necessary to conduct business; provided, however, that two members shall constitute a quorum for the purpose of conducting public hearings.

If any one of the appointing authorities fails to make his or her appointments within the time period specified in this act, then the first appointing authority to have made an appointment, according to the official notification process specified in this act, shall fill the position or positions left vacant by the other appointing authorities. The commission shall designate one of its voting members as chairman.

Members of the Legislature, officers and employees of the state or any county, municipality or other governmental unit of the state shall not be eligible for appointment to the commission and cannot serve as members of the commission.

Section 2. Members shall serve without compensation but shall be reimbursed for actual travel and subsistence expenses, as provided by law for state officials, incurred as a result of their official duties under this act.

Section 3. The legislative reference service, the legislative fiscal office, the clerk of the house and the secretary of the senate shall provide record-keeping functions, clerical assistance and perform other functions as may be needed.

Section 4. The commission shall conduct a study of the rates of compensation for fifty states' legislators, including salary, expense allowances, benefits and mileage allowances and thereafter issue a report of its findings and recommendations at least three weeks prior to the convening of the third regular session of each quadrennium. Such study shall include the cost-of-living changes and other economic factors, regionally, nationally and locally, which may have a direct effect on legislators' expenses. Public hearings and travel for the purposes of its work are authorized.

Section 5. The recommendations of the commission shall be sent to each member of the legislature, the lieutenant governor and the governor on the first day of the regular session of the reporting year and shall be introduced by the third legislative day. Unless the recommendations of the commission are adopted by a majority vote of both houses of the legislature during the regular session of the reporting years, then and in such an event, the compensation of

the legislature for the next quadrennium shall remain in the same amount as the compensation had been during the quadrennium of the reporting period.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 3:05 P.M.

Act No. 91-670

H. 117 — Rep. Warren

AN ACT

To amend Sections 9-13-196 and 9-13-197, Code of Alabama 1975, relating to failure to pay certain assessments on forest lands, so as to provide further for the sale and redemption of said land and provide further for the retroactive repeal of local laws levying an acreage assessment.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 9-13-196 and 9-13-197, Code of Alabama 1975, are hereby amended to read as follows:

“§9-13-196.

“(a) An owner or lessee of forest land who fails to pay, upon reasonable notice, any assessment levied under this article shall, in addition to the assessment, be subject to a per acre penalty as established by the commission’s rules and regulations.

“(b) Any finance charge, fee, or assessment levied shall constitute a lien on the property against which it is levied. In case of default in the payment of such finance charge, fee, or assessment, the subject land may be sold in the same manner and under the same conditions that lands are sold for the satisfaction of liens for county ad valorem taxes, provided, however, no sale of the subject land may occur within three years from the date of said default and redemption from such sale may be effected in the same manner as is provided by law for redemption where land is sold for nonpayment of ad valorem taxes.”

§“9-13-197.

“Any county may, by local legislation, increase the amount of the finance charge, fee or assessment provided for in this article, but is hereby prohibited from decreasing said amount; provided, however, all local laws levying acreage assessments are repealed retroactively effective October 1, 1990, except to the extent that they exceed ten cents per acre.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:05 P.M.

Act No. 91-671

H. 333 — Rep. Johnson

AN ACT

To amend section 38-2-6, Code of Alabama 1975, relating to the duties, powers and responsibilities of the Alabama state department of human resources, so as to provide for establishing rules and standards for inspection and approval of adult foster care homes and adult day care centers and homes.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 38-2-6, Code of Alabama 1975, is hereby amended to read as follows:

“§ 38-2-6.

“The aim of the state department shall be the promotion of a unified development of welfare activities and agencies of the state and of the local governments so that each agency and each governmental institution shall function as an integral part of a general system. In order to carry out effectively these aims, it shall be the duty and responsibility of the state department to:

“(1) Administer or supervise all forms of public assistance including general home relief, outdoor and indoor care for persons in need of assistance, also including those duties that have to do primarily with the determination of need and authorization of relief.

“(2) Exercise all the powers, duties and responsibilities previously vested by law in the state child welfare department.

“(3) Provide services to county or municipal governments including the organization and supervision of counties for the

effective carrying out of welfare functions, the compilation of statistics, and other information relative to public welfare and to make surveys and in other ways to ascertain the facts which cause or contribute to the need for public assistance, family welfare, child welfare and other welfare activities.

“(4) Assist other departments, agencies and institutions of the state and federal government, when so requested, by performing services in conformity with the purposes of the state department.

“(5) Act as the agent of the federal government in welfare matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the furtherance of any of the functions of the state department, and be empowered to meet such federal standards as may be established for the administration of such funds.

“(6) Designate county departments as its agents under its rules and regulations to perform any of the state department's functions.

“(7) Administer such welfare functions as may hereafter be vested in it by law.

“(8) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state and county departments. The use of such records, papers, files and communications by any other agency or department of government shall be limited to the purposes for which they are furnished and by the provisions of the law under which they may be furnished. All case records of recipients of, and applicants for, assistance, including, but not limited to, payments and services, shall be considered confidential and not public writings and shall not be subject to public use or inspection. At each session of the circuit court, however, the director of human resources in each county shall, upon request, submit to the grand jury a list of persons receiving public assistance in the county or division of the county covered by the court, and the grand jury may examine the list of public assistance recipients within the county and make such investigation in regard thereto as may be necessary to verify the accuracy of the same. It shall be the duty of the presiding judge to charge the grand jury at each session that it may make such investigation. The information obtained from either the state or county departments of human resources by the grand juries in investigations shall be subject to the same safeguards with respect to the confidential nature of such information as prevails with respect to such records and information while in the custody of the county or state departments of human resources. Confidential information concerning children and their

families and applicants for and recipients of public assistance, including, but not limited to, payments or services, shall not be used or disclosed for any purposes not directly connected with the administration of public assistance, or the investigation thereof by grand juries. Any violation of this provision shall be a misdemeanor and punishable accordingly.

“(9) Cooperate with the state department of corrections or with any pardon and parole authority of the state of Alabama by making necessary investigations with reference to families or dependents of persons committed to state penal institutions; in the discharge of its responsibility with reference to dependent or neglected minor children whose parent or parents may be inmates of any prison or jail, the state department of human resources shall cooperate and advise with the state department of corrections and with the officials of the courts committing said parent or parents to a prison or jail to the end that as full protection as possible may be afforded the families or children of said prisoners.

“(10) Seek out, through investigation, complaints from citizens, or otherwise, the minor children in the state who are in need of its care and protection and shall, as far as may be possible, through existing agencies, public or private, or through such other resources, aid such children to a fair opportunity in life.

“(11) Advise with the judges and probation officers of the juvenile courts of the several counties of the state, and aid in perfecting the organization and work of such courts.

“(12) Exercise the right of visitation and inspection of all state, county, municipal and other agencies and institutions, public or private, receiving, placing or caring for dependent or neglected minor children for the purpose of ascertaining from time to time the capacity and adequacy of the facilities offered by these agencies and institutions for the care of such children; the manner, character or way in which such children are cared for in such institutions or agencies, the children who are in such institutions, the facts showing their social status, the source of income and cost of maintenance and the way in which such children are received into and dismissed from such institutions or agencies.

“(13) License biennially all institutions and agencies except those under state ownership and control, caring for, receiving or placing minor children and to revoke such license for cause.

“(14) Establish and maintain homes or other agencies for the care of dependent or neglected minor children or contract with any approved agency or institution for the care of such children, and, also, receive and care for dependent or neglected minor children committed to its care, make a careful physical examination and, if

possible, a mental examination of every such child, investigate in detail the personal and family history of the child and its environment, and place such children in family homes or in approved suitable institutions operating in accordance with the provisions of this title and supervise such children however placed.

“(15) Require reports from courts and institutions, public and private, to the extent and in the form and manner as required by law.

“(16) Solicit, receive, and hold gifts, devises and bequests of money, real estate and other things of value to be used in the support, development, and carrying on of its work.

“(17) Administer and exercise all responsibility for the food stamp program.

“(18) Establish rules and standards for the inspection, approval, and operation of foster homes for adults which serve only those individuals who are eligible for adult foster care services and are referred and placed by the department of human resources.

“(19) Establish rules and standard for the inspection and approval of adult day care centers and adult day care homes.”

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 4:51 P.M.

Act No. 91-672

H. 354 — Reps. Hill, Johnson, Beasley,
Millican, Knight

AN ACT

To amend sections 40-17-31 and 40-17-240, Code of Alabama 1975, relating to gasoline and oil taxes, so as to provide an exemption for gasoline, motor fuel and oil purchased by city and county boards of education, the Alabama Institute for Deaf and Blind, and the Department of Youth Services School District.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 40-17-31 and 40-17-240, Code of Alabama 1975, are hereby amended as follows:

“§40-17-31.

“(a) Every distributor, refiner, retail dealer, storer or user of gasoline shall collect and pay over to the state department of revenue an excise tax of \$.07 per gallon upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for any use of gasoline as defined or otherwise referred to in this article, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section; and except gasoline and motor fuel, as defined in section 40-17-1, Code of Alabama 1975, sold for use by city and county boards of education, the Alabama Institute for Deaf and Blind, the department of youth services school district, and private and church schools as defined in section 16-28-1, and which offer essentially the same curriculum as offered in grades K-12 in the public schools of this state; provided that where any excise tax imposed by this section upon the sale, use or consumption, distribution, storage, withdrawal from storage in this state of such gasoline shall have been paid to the state by a distributor, refiner or by any retail dealer, storer or user, such payments shall be sufficient, the intent being that the tax shall be paid to the state but once.

“(b) The state department of revenue is hereby authorized to issue to the United States certificates of exemption, upon forms prescribed by the department for use by the United States in purchasing gasoline or other fuels taxed by this section within the state of Alabama and which is paid for by the United States. Any person in reporting and paying the tax to the department may deduct the number of gallons of gasoline or other fuels taxed by this section sold to the United States, as shown by such certificate of exemption duly executed by the United States and filed with such report, and the department is authorized to adopt rules and regulations with respect to the issuance and use of such certificates.

“(c) The revenue, less the cost of collection and all refunds authorized by law, obtained from the \$.07 excise tax on gasoline, naphtha and other liquid motor fuels, or any device or substitute therefor commonly used in internal combustion engines, as is provided for in this section, shall not be used for any purposes other than the following, namely:

“(1) The legislature hereby finds as a fact that of all the gasoline sold in this state not less than thirty-five one hundredths of one percent thereof is used for marine purposes to propel vessels on inland and coastal waterways of this state. The legislature hereby declares that it is the policy of this state to use the funds derived from the sale of marine gasoline to improve boating and boating facilities, seafoods and salt water sports fishing in this state. Thirty-five one hundredths of one percent of all state imposed taxes collected on the sale of gasoline (except gasoline and

other fuels consumed in airplanes) shall be credited as follows: 60 percent to the state water safety fund of the water safety division and 40 percent to the seafood fund of the seafood division.

“(2) The revenue arising from the sale of gasoline as herein defined, except gasoline sold for use as fuel to propel aircraft and which gasoline is subject to the tax imposed in subsection (d) of this section, for all other purposes shall not be used for any purpose other than for the construction, improvement, maintenance and supervision of highways, bridges and streets, including the retirement of bonds for the payment of which such revenues have been or may hereafter be pledged. The payment of the per diem and mileage of members of county governing bodies when engaged in supervising the construction, improvement and maintenance of highways, bridges and streets, shall be construed as used in supervision; however, the governing body of each county is authorized to expend an amount not to exceed one third of the total amount of such revenue that may be received by such county in the payment of any debt that may have been incurred by such county for the construction or maintenance of roads or bridges. This fund shall be allocated in the manner now provided by law. On the twentieth day of each month following that quarter of any fiscal year, all revenue derived from the sale of gasoline to be consumed in the motor of a boat or vessel as defined in subdivision (1) of this subsection shall be allocated to the state water safety fund and seafood fund.

“(d)(1) Every distributor, refiner, retail dealer, storer or user of gasoline or any substitute or device therefor sold for use as a fuel to propel aircraft shall collect and pay over to the state department of revenue an excise tax in accordance with the following schedule upon the selling, use or consumption, distributing, storing or withdrawing from storage in this state for use as a fuel to propel aircraft:

“a. Gasoline or other fuel used to propel aircraft powered by reciprocating engines shall be taxed at the rate of two and seven tenths cents per gallon.

“b. Any fuel used to propel aircraft powered by jet or turbine engines shall be taxed at the rate of nine tenths of one cent per gallon.

“(2) On July 31, 1977, or as soon thereafter as practicable, and at the same time in every year thereafter, the commissioner of revenue shall determine the total number of gallons of fuel upon which the tax levied in subdivision (1) of this subsection has been reported and paid to the state during the preceding 12-month period, and at the same time he shall ascertain the total net amount of revenue produced by the tax levied thereon. If the net proceeds of the tax for such period amount to more than \$650,000.00, the rate of tax shall be reduced in decrements of three tenths of one cent per gallon with

respect to the tax levied in paragraph a of subdivision (1) of this subsection and in decrements of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for such period at a level of \$600,000.00. If at any time after such a reduction the rate of tax collections declines to the extent that the \$600,000.00 level for a similar 12-month period cannot be maintained, the rate of the tax shall be correspondingly increased in increments of three tenths of one cent per gallon with respect to the tax levied in paragraph a of subdivision (1) of this subsection and increments of one tenth of one cent per gallon with respect to the tax levied in paragraph b of subdivision (1) of this subsection to the extent required to maintain net collections for a similar period at a level of \$600,000.00. It is the legislative intent by the above provisions to maintain collections at a \$600,000.00 level per annum.

“(3) The revenue, less the cost of collection, obtained from the tax levied in subdivision (1) of this subsection shall be paid into the state treasury and be used exclusively for the purpose of paying the cost of acquiring, engineering, construction, improvement and maintenance of existing or proposed airports and other air navigation facilities within the state, for the payment of the salary of the state director of aeronautics, the salaries of other employees of the Alabama department of aeronautics and for the payment of other administrative and aeronautical expenses of the Alabama department of aeronautics and for the further purpose of creating a sinking fund for the payment of the interest and retirement of the principal of all bonds which may be hereafter lawfully issued, sold and delivered for funds to be used exclusively for the enumerated purposes.

“(4) There is hereby exempted from the provisions of subdivision (1) of this subsection and from the excise tax imposed by this section the sale, use or consumption, distribution, storage or withdrawal from storage in this state of gasoline or any other fuel for use as a fuel to propel aircraft of a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words “hub operation within this state” shall be construed to have all of the following criteria;

“a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and

“b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

“(e) Every distributor, refiner, retail dealer or storer of gasoline or other fuels taxed by this section shall add the amount of the excise tax levied and assessed herein to the price of the gasoline or other fuels taxed by this section, it being the purpose and intent of this provision that the tax levied is in fact a levy on the consumer or user with distributor, refiner, retail dealer or storer, or in the case of a licensed user, acting merely as an agent of the state for the collection and payment of the tax to the state.”

“§40-17-240

“All Class 1 municipalities, city and county boards of education, the Alabama Institute for Deaf and Blind, the Department of Youth Services School District, and private and church schools as defined in section 16-28-1, and which offer essentially the same curriculum as offered in grades Kindergarten through 12 in the public schools of this state shall be exempt from the payment of any and all oil, gasoline and diesel fuel taxes of any nature whatsoever, whether state, county or municipal.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 4:54 P.M.

Act No. 91-673

H. 237 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Marion Military Institute for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of four hundred twenty-nine thousand seven hundred ninety-nine dollars (\$429,799) from the Alabama Special Educational Trust Fund to Marion Military Institute.

SECTION 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and

other resources as of the date of the close of its immediately preceding academic year.

SECTION 3. This Act shall become effective October 1, 1991.

Approved August 8, 1991

Time: 5:16 P.M.

Act No. 91-674

H. 646 — Rep. Harper

AN ACT

To make an appropriation to the Commission on Physical Fitness for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Commission on Physical Fitness for the fiscal year ending September 30, 1992 the sum of three hundred sixty-eight thousand one hundred forty dollars (\$368,140) out of the funds in the Alabama Special Educational Trust Fund and there is also hereby appropriated the Commission's Federal and Local Funds. Of the above appropriation to the Commission on Physical Fitness, \$90,000 shall be expended for the Alabama Sport Festival.

Section 2. The above appropriation is made for educational purposes which shall include but shall not be limited to maintaining liaison with the State Department of Education, boards of education and private and parochial schools; advising on such programs of physical fitness; promoting physical fitness education for the mentally retarded and physically handicapped and providing for physical educational facilities.

Section 3. The Commission on Physical Fitness is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1991.

Section 4. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:20 P.M.

Act No. 91-675

H. 506 — Rep. Haynes

AN ACT

To authorize municipalities or counties to acquire sites, purchase and construct homeless shelters, halfway houses and emergency housing, and affordable single and

multi-family dwellings; to receive funds for said use; to sell and issue bonds; to execute mortgages and deeds; to appropriate or lend funds to any public or private not-for-profit corporation created to fund such housing and dwellings; to join other municipalities or counties in the exercise of such powers; to require that certain construction authorized pursuant to this act shall be performed by a licensed contractor; and to require certain construction shall be subject to the state competitive bid laws.

Be It Enacted by the Legislature of Alabama:

Section 1. It is hereby declared that a lack of sanitary, safe and affordable dwelling accommodations for persons of moderate and low income and shelters, halfway houses and emergency housing for persons who would otherwise be homeless exists in various municipalities and rural areas of the state. Consequently, persons of low and moderate income are forced to reside in and use unsafe and unsanitary dwellings and certain other persons are unable to afford any dwelling accommodations at all. These conditions which cause an increase in and spread of disease and crime constitute a menace to the health, safety, morals and welfare of the citizens of the state. It is a matter of public interest to provide safe and sanitary housing for the low and moderate income citizens and shelter for homeless persons, to alleviate such conditions and to encourage economic development, to increase employment in housing construction and related businesses and to create and foster conditions suitable for the welfare and prosperity of all of the people of the state by making available a more adequate supply of funds and increase the availability of safe and sanitary shelters, halfway houses and emergency housing for the homeless and single and multi-family dwelling accommodations for citizens of low and moderate income within such municipalities and rural areas. The necessity for the provision of such homeless shelters, halfway houses and emergency housing and such single and multi-family dwelling accommodations for low and moderate income persons and the taking of related actions provided for in this act is hereby declared as a matter of legislative determination to be in the public interest.

Section 2. For purposes of this act, a low or moderate income person or family shall mean those persons or families with incomes that do not exceed the level of 80% of the median income for the applicable area, as provided for under existing regulations promulgated by the United States Department of Housing and Urban Development currently contained within the provisions of 24 Code of Federal Regulations at Parts 813 and 913, and such successor federal laws and regulations as may exist from time to time, provided that if no such regulations or successor regulations exist, median income will be determined by each municipality taking into account all relevant factors.

Section 3. The council or other governing body of any municipality, or governing body of a county in furtherance of the legislative purpose stated above, is empowered to take the following

actions and to the extent necessary or desirable in its judgment to expend its moneys to accomplish such purpose:

1. To acquire sites for, purchase, construct, own, develop, operate, survey, subdivide, establish, maintain, refurbish, remodel or improve single or multi-family dwellings;

2. To receive designated funds from whatever source, federal, state, private or otherwise and to apply such funds for the uses and purposes described in this act;

3. To sell and issue bonds or warrants in order to provide funds for any low or moderate income single or multi-family housing purpose or to provide funds for any shelter for the homeless purpose;

4. To purchase mortgage loans from mortgage lenders;

5. To contract with mortgage lenders for the origination of, or the servicing of mortgage loans to be made by such mortgage lenders and the servicing of the mortgages securing such mortgage loans;

6. To make loans to mortgage lenders provided that the proceeds of such loans shall be required to be used by such mortgage lenders for the making of mortgage loans within the municipalities or counties and provided further, that the mortgages in connection with the mortgage loans so made, together with any additional security required by the municipality, shall be mortgaged, pledged, assigned or otherwise provided as security for such loans to mortgage lenders;

7. To exercise any and all rights according to the owner and holder of a mortgage under and in accordance with the terms of said instruments and the applicable laws of the state with respect to the mortgaged property, directly or through mortgage lenders or others acting on behalf of the municipality or county or on behalf of the holder of its bonds or warrants, including, but without limitation, the power to foreclose, to sell the equity of redemption, to purchase the equity of redemption and otherwise to sell and dispose of the mortgaged property, all as shall seem in the best interests of the municipalities and the holders of its bonds or warrants;

8. To execute and deliver in furtherance of the provisions of this act, mortgages, deeds of trusts or trust indentures;

9. To sell at public or private sale, exchange, lease and convey any or all of its properties whenever such action is in furtherance of the purposes stated in this act;

10. To establish such reserves from the proceeds of any issue of bonds, warrants or from revenues of the municipality or county as its governing body shall determine to be necessary and desirable in connection with the payment and retirement of the bonds or warrants;

11. To make, enter into and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or desirable to accomplish any purpose granted by this act;

12. To appropriate, lend or donate funds or properties to any political subdivision, public corporation or nonprofit corporation or agency to be used for the purpose of funding or providing low or moderate income housing or homeless shelter, halfway houses or emergency housing;

13. To provide for such insurance as the governing body may deem advisable, including, but without limitation, casualty insurance, mortgage payment guaranty insurance and bond insurance;

14. To enter into a management agreement or agreements with any person, firm or corporation for the performance by said person, firm or corporation of any of the functions or powers granted to the municipality or county in this act with respect to the provision of single or multi-family dwellings upon such terms and conditions as may be mutually agreeable and in the public interest;

15. To sell or lease to persons of low or moderate income or to other persons who will themselves sell or lease the same, or otherwise make the same available for occupancy by persons of low or moderate income any single or multi-family dwelling units acquired by the municipality or county, all upon such terms and conditions as it shall determine to be in the public interest and necessary or desirable to carry out the purposes of this act;

16. To acquire sites for, purchase, construct, own, develop, establish, maintain, operate, refurbish, remodel or improve shelters for homeless persons including, without limitation, day shelters, night shelters or respite shelters, halfway houses including, without limitation, rooming houses and emergency shelters of any kind. Soup kitchens, health clinics, social service programs and educational programs may be operated in any of the foregoing facilities. Persons served by such facilities may be charged for the services provided therein if the council or governing body determines that such charges are in the public interest. Any of the foregoing facilities may be operated on behalf of the municipality or county by a nonprofit organization designated by the municipality or county; and

17. To do any and all things necessary or convenient to carry out the purposes described in this act and to exercise its powers pursuant to the provisions of this act.

Section 4. Any two or more municipalities or counties may join or cooperate with one another or with an unincorporated area in the exercise, either jointly or otherwise, of any or all of their powers for the

financing, planning, undertaking, owning, constructing, operating, contracting or disposing of any dwelling, shelter, halfway house or other housing located within the boundaries of any one or more of said municipalities or counties. For such purpose any municipality or county may authorize any other so joining or cooperating with it to act on its behalf with respect to any or all of such powers. Any municipalities or counties joining or cooperating with one another may by resolution appoint from among the members of the governing bodies an executive committee with full power to act on behalf of such municipalities or counties with respect to all their powers. Furthermore, any municipality may join or cooperate with an unincorporated rural area in the exercise of such powers, above, with the permission and concurrence of the governing body of the county wherein the unincorporated area is located. For such purpose, any municipality or county may authorize any other so joining or cooperating with it to act on its behalf with respect to any or all of such powers.

Section 5. Except as may be otherwise expressly provided, all powers and authorities conferred shall be cumulative and supplemental and not in derogation of any powers and authorities otherwise existing.

Section 6. All construction authorized pursuant to the provisions of this act shall be performed by a licensed contractor as provided in chapter 8 of Title 34 of the Code of Alabama 1975. All construction authorized pursuant to the provisions of this act shall be subject to the state competitive bid laws as provided in chapter 16 of Title 41 of the Code of Alabama 1975, or as provided by any other provision of general law.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 4:57 P.M.

Act No. 91-676

H. 250 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Child Advocacy Centers for the fiscal year ending September 30, 1992, and to require operations plans and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992 there is hereby appropriated to the Child Advocacy Centers from the State General Fund the sum of Four hundred eighty-two thousand one hundred fifty dollars (\$482,150). Said appropriation is to be used for the support and maintenance of said centers as follows:

1. Prescott House-Birmingham\$48,215
2. National Children's Advocacy Center,
Inc.- Huntsville\$48,215
3. The Child Advocacy Center, Inc.-Mobile\$48,215
4. Montgomery Child Protection and
Advocacy Center, Inc.....\$48,215
5. Tuscaloosa Children's Center, Inc.....\$48,215
6. Bessemer Cut-off Advocacy Center, Inc.....\$48,215
7. Blount County Children's Center, Inc\$48,215
8. Gadsden-Etowah County Children's
Advocacy Center, Inc.....\$48,215
9. Care House-Baldwin County\$48,215
10. Calhoun-Cleburne Children's Center, Inc.\$48,215
11. Northwest Alabama Children's
Advocacy Center\$48,215
12. Houston-Henry County Child Advocacy Center.....\$48,215

The above appropriations to the Northwest Alabama Children's Advocacy Center and the Houston-Henry County Child Advocacy Center are conditioned on the availability of funds in the State General Fund and the approval of the Governor. Said conditional appropriations shall be the first priority conditionals from the State General Fund and shall be released prior to any other conditionals being released, notwithstanding any other provisions of law.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, operations plans for fiscal year 1991-92 and audited financial statements for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:45 P.M.

Act No. 91-677

H. 110 — Reps. Freeman, Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Space Science Exhibit Commission for the fiscal year 1991-92 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Space Science Exhibit Commission, for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of two hundred eighty-eight thousand eight hundred forty dollars (\$288,840).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:06 P.M.

Act No. 91-678

H. 235 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Emergency Medical Services Programs for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of two million three hundred thirty-five thousand three hundred thirty-eight dollars (\$2,335,338), out of the funds in the Alabama Special Educational Trust Fund to be used for the support and maintenance of the Emergency Medical Services Programs as follows:

- | | |
|---|-----------|
| (a) Birmingham Regional Emergency Medical System..... | \$304,978 |
|---|-----------|

- (b) East Alabama Emergency
Medical Services, Inc\$304,978
- (c) North Alabama Emergency
Medical Services, Inc\$304,978
- (d) Southeast Alabama Emergency
Medical Services Council, Inc\$304,978
- (e) Southwest Alabama Emergency
Medical Services System, Inc.....\$304,978
- (f) West Alabama Emergency
Medical Services, Inc\$304,978
- (g) Trenholm State Technical College.....\$168,490
- (h) Gadsden State Community College.....\$168,490
- (i) Lurleen B. Wallace State Junior College\$168,490

Section 2. The amounts herein appropriated shall be used for the operation and maintenance of the various medical services programs named and for the purchase of instructional supplies and new instructional equipment for such programs.

Section 3. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 4. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:17 P.M.

Act No. 91-679

H. 261 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Sickie Cell Education Program for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated from the Alabama Special Educational Trust Fund the sum of eight hundred eighty-five thousand nine

hundred forty-two dollars (\$885,942) to the Sickie Cell Education Program, as follows:

1. Jefferson County Sickie Cell/Detection Committee, Inc.....\$213,559
 2. Sickie Cell Disease Association of Gulf Coast, Alabama\$172,888
 3. Sickie Cell Foundation of Greater Montgomery, Inc ...\$67,584
 4. Southeast Alabama Sickie Cell Association\$139,646
 5. Tri-County West Central Alabama Sickie Cell Anemia Association, Inc\$61,694
 6. Children's Hospital of Birmingham\$38,970
 7. Children's and Women's Hospital-Comprehensive Sickie Cell Center\$33,577
 8. North Alabama Sickie Cell Foundation.....\$95,812
- The above appropriation to the North Alabama Sickie Cell Foundation shall be expended upon the approval of a budget approved by the Madison County Legislative Delegation.
9. West Alabama Sickie Cell Program.....\$39,712
 10. Sickie Cell Disease Association of Gulf Coast, Alabama for Statewide Testing\$22,500

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:48 P.M.

Act No. 91-680

H. 239 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Talladega College for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of four hundred one thousand

one hundred forty-seven dollars (\$401,147) from the Alabama Special Educational Trust Fund to Talladega College.

SECTION 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

SECTION 3. This Act shall become effective October 1, 1991.

Approved August 8, 1991

Time: 5:14 P.M.

Act No. 91-681

H. 64 — Rep. White

AN ACT

To amend Section 9-17-33 of the Code of Alabama 1975, as amended, relating to the disposition of proceeds or royalties from the sale of oil or gas production, penalties for violations and judicial jurisdiction, so as to further provide therefor and for payment information requirements to interest owners; to provide for definitions for the section and exceptions; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-17-33 of the Code of Alabama 1975, is hereby amended to read as follows:

“§9-17-33.

“(a) As used in this section:

“(1) ‘Check stub’ means the financial record attached to a check, included with a check or mailed separately at or near the time the check is mailed;

“(2) ‘Division order’ means a contract between the interest owner and the purchaser, operator or the owner of the right to drill and to produce, directing the distribution of the value from the sale of the oil, gas and other liquid hydrocarbons in the proportions set out in the division order, which division order is prepared by the purchaser, operator and/or the owner of the right to drill and to produce on the basis of the ownership shown in a title opinion prepared after examination of abstracts or based on other generally acceptable legal ownership documentation and which is executed by the interest owners or others having an interest in the production; and

“(3) ‘Interest owner’ means a person owning a royalty interest or a working interest in an oil or gas well or unit.

“(b) Whenever payment is made for oil or gas production to an interest owner, whether pursuant to a division order, lease, servitude or other agreement, all of the following information shall be included on or ascertainable from the check stub or on an attachment to the form of payment, unless the information is otherwise provided on a regular basis:

“(1) Lease, property or well identification number, if any, or reference to appropriate agreement with identification of the well or unit from which production is attributed;

“(2) Month and year of sales or purchases included in the payment;

“(3) Total barrels of crude oil or MCF of gas purchased or sold;

“(4) Owner’s final realizable price per barrel MCF, long ton, or other appropriate measurement;

“(5) Total amount of severance and other production taxes, with the exception of windfall profit tax;

“(6) Net value of total sales from the property after taxes are deducted;

“(7) Interest owner’s interest, expressed as a decimal fraction, in production from (1) above;

“(8) Interest owner’s share of the total value of sales prior to any tax deductions; and

“(9) Interest owner’s share of the sales value less his share of the production and severance taxes, as applicable.

“(c) The proceeds derived from the sale of oil or gas production from any oil or gas well shall be paid to persons legally entitled thereto, commencing no later than six months after the date of the first sale, and thereafter no later than 60 days after the end of the calendar month within which subsequent production is sold. Such payment is to be made to persons legally entitled thereto by the first purchasers of such production by tender to such person’s designated agents or at their last known address. Provided, such purchasers may remit to the persons entitled to such proceeds from production semi-annually where the aggregate of six months accumulation of monthly proceeds does not exceed \$60.00. As used herein, ‘first purchase’ shall mean the first commercial purchaser of production after completion of the well and shall not include purchasers of oil or gas during initial testing prior to completion of the well; further provided, that any delay in determining the persons legally entitled to an interest in such proceeds from production caused by unmarketable title to such

interest shall not affect payment to persons whose title is marketable. Provided, however, that in those instances where such proceeds derived from oil or gas produced and sold after May 4, 1982, cannot be paid within the time allowed by this section because the title thereto is not marketable, the purchasers of such production shall remit to the parties ultimately determined to be the legal owners of such production, the full amount of such proceeds plus interest at the rate on a per annum basis equal to the Federal Reserve Discount Rate in effect as of the first day of each month during which interest on such proceeds is payable, such interest to accrue from the date that proceeds were due to persons with marketable title as hereinabove specified. Marketability of title shall be determined in accordance with the then current legally recognized real property law governing title to oil and gas interest. The first purchaser shall be exempt from provisions of this subsection and the operator and/or the owner of the right to drill and to produce under an oil and/or gas lease shall be substituted for the first purchaser therein where the operator and/or the owner and purchaser have entered into an arrangement where the proceeds are paid by the purchaser to the operator and/or the owner who assumes responsibility of paying the proceeds to persons legally entitled thereto. Where the operator and/or the owner of the drilling rights are substituted herein for the purchaser, the period of time set forth herein under which such parties must account to persons entitled to the production shall be determined as of the date of receipt of the proceeds for such production as opposed to the date of first sale applicable to the purchaser.

“(d) Any first purchaser of production or operator and/or owner of the right to drill substituted for the first commercial purchaser as provided herein, that violates this section shall be liable to the persons legally entitled to the proceeds from production for the unpaid amount of such proceeds plus interest at the rate of 12 percent per annum, such interest accruing from the date at which such proceeds were due as specified herein.

“(e) The circuit court for the county or counties in which the oil or gas well is located shall have jurisdiction over all proceedings brought pursuant to this section.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. The provisions of this act shall become effective the next reporting date 90 days after the passage and approval of this act by the Governor, except as otherwise herein provided.

Approved August 8, 1991

Time: 5:12 P.M.

Act No. 91-682

H. 537 — Rep. Venable

AN ACT

To amend section 36-30-1 of the Code of Alabama 1975, relating to compensation for the death of peace officers and firemen so as to provide further for the definition of peace officer so as to include the alcoholic beverage control board enforcement division agents, revenue agents and persons who are required by law to comply with the provisions of the peace officers minimum standards within the definition; to provide for severability and to provide for retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-30-1 of the Code of Alabama 1975, is hereby amended to read as follows:

“§36-30-1.

“(a) For the purposes of this chapter, the following words and phrases shall have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

“(1) **AWARDING AUTHORITY.** The state board of adjustment, created and existing pursuant to article 4, chapter 9 of Title 41.

“(2) **DEPENDENT CHILD.** An unmarried child under the age of 18 years, or one over that age who is physically or mentally incapacitated from earning.

“(3) **FIREMAN or FIREMEN.** A member or members of a paid, part-paid or volunteer fire department of a city, town, county or other subdivision of the state or of a public corporation organized for the purpose of providing water, water systems, fire protection services or fire protection facilities in the state; and such words shall include the chief, assistant chief, wardens, engineers, captains, firemen and all other officers and employees of such departments who actually engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action.

“(4) **PEACE OFFICER.** All sheriffs, deputy sheriffs, constables, municipal police officers, municipal policemen, state and town marshals, members of the highway patrol, state troopers, alcoholic beverage control board enforcement division agents, revenue agents and persons who are required by law to comply with the provisions of the peace officers minimum standards, employees of the board of corrections, highway camp guards, law enforcement officers of the department of conservation and natural resources, all law enforcement officers of the Alabama forestry commission,

livestock theft investigators of the department of agriculture and industries, capitol security guards, narcotic agents and inspectors of the state board of health and any other state, county or municipal officer engaged in quelling a riot, rout or civil disturbance and university police officers.

“(b) For the purposes of this chapter the following described persons shall be conclusively presumed to be wholly dependent:

“(1) Wife, unless it be shown that she was voluntarily living apart from her husband at the time of his death, or unless it be shown that the husband was not in any way contributing to her support and had not in any way contributed to her support for more than 12 months next preceding the occurrence of the injury causing his death.

“(2) Minor children under the age of 18 years and those over 18 if physically and mentally incapacitated from earning.

“(3) Wife, child, husband, mother, father, grandmother, grandfather, sister, brother, mother-in-law and father-in-law who were wholly supported by the deceased peace officer or fireman at the time of his death and for a reasonable period of time prior thereto shall be considered his dependents and payment of compensation may be made to them as hereinafter authorized.

“(c) Any member of the class named in subdivision (3) of subsection (b) of this section who regularly derived part of his support from the earnings of the deceased peace officer or the deceased fireman, as the case may be, at the time of his death and for a reasonable time immediately prior thereto shall be considered his partial dependent and payment of compensation may be made to such partial dependent as hereinafter authorized.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become retroactive to January 1, 1990, immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:18 P.M.

Curry, Hooper, Bugg, Butler,
Kvalheim, Carothers, Haynes,
Mathis, Fuller

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the AIDS Task Force of Alabama, Inc., for the fiscal year beginning October 1, 1991, for programs to help prevent the spread of AIDS; to require an operations plan and audited financial statement.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated the sum of \$250,328 from the Alabama Special Educational Trust Fund to the AIDS Task Force of Alabama, Incorporated, for the fiscal year which begins October 1, 1991, for educational programs to help prevent the spread of AIDS. Funds appropriated herein are for disbursement to the various AIDS prevention community-based organizations in Alabama according to a plan to be developed by the Board of Directors of the AIDS Task Force of Alabama, Incorporated.

Section 2. Prior to the release of any funds appropriated herein, an operations plan for fiscal year 1991-92 must be developed by the Board of Directors of the AIDS Task Force of Alabama, Incorporated, submitted to and approved by the State Health Department and the HIV Education Advisory Board and then forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following the receipt of the operations plan by the Director of Finance. The HIV Education Advisory Board shall consist of six members as follows: the state health officer or his designee; one assistant state health officer appointed by the state health officer; one physician appointed by the Infectious Disease Society of Alabama who is selected from a list of physicians who routinely treat HIV infection; two representatives appointed by the American Red Cross of which one must be a health educator; and, the Chairperson of the AIDS Task Force of Alabama community-based organization committee. An audited financial statement of the expenditures shall be submitted to the state Finance Director at the end of the fiscal year.

Section 3. This Act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:24 P.M.

Act No. 91-684

H. 347 — Rep. Mathis

AN ACT

To amend Sections 40-6-1, 40-6-3, and 40-6-4, Code of Alabama 1975, as amended, relating to the qualifications, compensation, and benefits of supernumerary tax

assessors, tax collectors, revenue commissioners, license commissioners or other elected or appointed officials charged with the assessment and/or collection of ad valorem taxes, so as to establish the minimum age of qualification; to provide for an increase in compensation; to provide further for the method of determining such compensation; to provide for future increases in such compensation and the compensation of surviving spouses of such officials; to exempt the compensation of such officials and their surviving spouses from state income tax after 1990; and to repeal Sections 40-6-5, 40-6-7 and 40-6-8, which relate to election to participate in the tax collectors and tax assessors supernumerary program.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-6-1, Code of Alabama 1975, is hereby amended to read as follows:

“§40-6-1.

“In the various counties of the state of Alabama having a population of less than 600,000 inhabitants according to the last or any subsequent federal decennial census, any tax collector, tax assessor, revenue commissioner, license commissioner or other elected or appointed official charged with the assessment and/or collection of any ad valorem taxes in any county of the state of Alabama:

“(1) Who has served for 14 years as such official in any county of Alabama and who has become permanently and totally disabled, proof of such disability being made by certificate of three reputable physicians;

“(2) Who has served for 12 years as a county official for any county of Alabama, at least 10 years or more being continuously as tax collector, tax assessor, license commissioner, revenue commissioner or other elected or appointed official charged with the assessment and/or collection of ad valorem taxes, and who is not less than 60 years of age, may elect to become a supernumerary tax collector, tax assessor, revenue commissioner, license commissioner or other elected or appointed official charged with the assessment and/or collection of any ad valorem taxes of the county in which he serves as such official by filing a written declaration to that effect with the governor of the state of Alabama. If the governor of the state of Alabama shall find any such declarant qualified either under subdivision (1) or (2) of this subsection, a commission as supernumerary tax collector, tax assessor, revenue commissioner, license commissioner or other elected or appointed official charged with the assessment and/or collection of any ad valorem taxes for the county in which he has served in the state of Alabama shall thereupon be issued to such declarant by the governor of the state of Alabama. In computing length of service as such official, the time served as any other county-wide elected official of the county and/or the time served as chief clerk of the tax collector, tax assessor or license commissioner of any county shall be counted; or elected state and city official;

“(3) Who has served 18 years as a county official for any county of Alabama, the last six or more years as tax collector, tax assessor, revenue commissioner, license commissioner, or other elected or appointed official charged with the assessment and/or collection of ad valorem taxes, and prior thereto at least 12 years as chief clerk to the tax collector, tax assessor, revenue commissioner or license commissioner, or other elected or appointed official charged with the assessment and/or collection of ad valorem taxes, or prior thereto at least 12 years as an elected county commissioner, who is not less than 60 years of age or who has become permanently and totally disabled, proof of such disability being made by certificate of three reputable physicians, may elect to become a supernumerary tax collector, tax assessor, revenue commissioner or license commissioner or other elected or appointed official by filing a written declaration to that effect with the governor of the state of Alabama. If the governor shall find that any such declarant is qualified under this subdivision, a commission as supernumerary tax collector, tax assessor, revenue commissioner or license commissioner, or other elected or appointed official charged with the assessment and/or collection of ad valorem taxes, as the case may be, for the county in which he has served shall be issued to the declarant; or

Section 2. Section 40-6-3, Code of Alabama 1975, is hereby amended to read as follows:

“§40-6-3.

“Every such supernumerary official shall serve for life and receive from the county governing body, in equal monthly installments on the first of each month, or in such installments as other county officials or employees are paid, an annual salary as follows:

“(1) For 12 years service he shall receive 60 percent of his average compensation during the last four years served as an official charged with assessing and collecting ad valorem taxes;

“(2) For 14 years service he shall receive 65 percent of such average compensation;

“(3) For 16 years he shall receive 70 percent of such average compensation; and

“(4) For 18 or more years he shall receive 75 percent of such average compensation, provided, however, that no person shall receive more than \$45,000.00 per year.

“The tax collector, if there is a supernumerary tax assessor or tax collector in the county, or the license commissioner or person charged with the collection of any ad valorem taxes other than the tax collector, if there is a supernumerary license commissioner or other official charged with the assessing and/or collecting of ad

valorem taxes in the county, shall out of the first money collected by him pay to the county governing body the said sum which shall be paid to the supernumerary official as heretofore set forth. The said sum shall be deducted on a pro rata millage basis from payments to the state, county and all subdivisions and agencies thereof, except municipalities, to which the person collecting ad valorem taxes is charged with the distributing of ad valorem taxes collected under the law; provided, that should such official die without leaving a surviving spouse, or otherwise become disqualified as such supernumerary official, any money remaining in such fund shall be refunded to the person by whom it is paid to the county, and he shall distribute the money refunded to him to the state, county and other subdivisions and agencies on the same pro rata millage basis that it was originally withheld.

"If any official covered under this chapter should die prior to attaining the age of sixty years, but being otherwise qualified to be appointed a supernumerary official, except for age, and be survived by a spouse lawfully married to such official at the time of his or her death, then such surviving spouse shall be paid a monthly allowance equal to fifty percent of the salary which would have been paid to such official had he or she survived to the age of 60. Said monthly allowance shall be paid in the same manner as herein provided for payment to a qualified official and shall continue for 15 years or until the marriage of said surviving spouse, whichever first occurs. Likewise, upon the death of any official covered under this chapter after he or she has become fully qualified for appointment as a supernumerary official, including age, whether appointed as a supernumerary official or still serving in active office, the surviving spouse of such official shall be paid a monthly allowance equal to fifty percent of the supernumerary salary being paid to such official or to which he or she would be entitled if appointed as supernumerary, said monthly allowance to be paid in the same manner herein provided for such official and to continue for 15 years or until the marriage of said surviving spouse, whichever first occurs."

Section 3. Section 40-6-4, Code of Alabama 1975, is hereby amended to read as follows:

"§40-6-4.

"The governing body of such county shall deduct from the salary of the tax collector, tax assessor, revenue commissioner, license commissioner or other elected official charged with the assessment and/or collection of any ad valorem taxes of each county, if such officials are paid by salary, an amount equal to seven percent of the annual salary paid such official by the county. Such sum shall be deducted monthly and distributed at the end of the

fiscal year on a pro rata millage basis to the state, county and all subdivisions and agencies thereof, except municipal corporations, to which ad valorem taxes are paid. If such officials are compensated by fees and commissions, the tax collector shall deduct from the money paid to the tax collector, tax assessor, revenue commissioner, license commissioner, or other elected official charged with the assessment and/or collection of ad valorem taxes, an amount equal to seven percent of the sum paid, and said amounts shall be distributed immediately to the state, county and all subdivisions and agencies thereof, except municipal corporations, to which ad valorem taxes are paid. If any person coming under the provisions of this chapter shall end his tenure of office prior to becoming supernumerary as provided in section 40-6-1, the official whose tenure of office has ended may elect to have the total amount paid by him refunded or, if qualified by length of service but not age, may elect to wait until reaching age 60 and then receive the annual salary as provided for in section 40-6-3. In the event such persons die in office prior to becoming supernumerary, and leave no surviving spouse, the amount paid in by him or her shall be paid to his or her estate. Likewise, any surplus remaining from contributions made by a supernumerary official who dies after becoming supernumerary, and without leaving a surviving spouse, but before he or she has drawn out as much as he or she had paid in prior to becoming supernumerary, shall be paid to his or her estate. In the event an official dies in office prior to serving the minimum length of time to qualify as a supernumerary, and leaves a surviving spouse, the amount paid in by him or her shall be paid to such surviving spouse. Any person desiring to come under the provisions of this chapter pursuant to subdivisions (2) or (3) of section 40-6-1, shall pay to the county tax collector such proportionate sum as to equal the amount he or she would have been required to pay if he or she were employed as a tax collector, tax assessor, revenue commissioner, license commissioner or other elected official charged with the assessment and/or collection of any ad valorem taxes of the county, such proportionate sum to be distributed by the tax collector as provided in this section."

Section 4. Anything to the contrary contained in this Act notwithstanding, the annual salary of every supernumerary official serving under this act on the effective date of this act, shall be increased by \$5,000.00. Thereafter, supernumerary officials serving under this chapter, or their surviving spouses, shall receive the same percentage increase in compensation as is provided by the Legislature from time to time for state merit system employees, such increase to take effect on October 1 next following the enactment of legislation providing for the increase in state merit system salaries. Provided, however, the percentages provided in Section

40-6-3 for computing supernumerary compensation, as amended by this Act, shall not apply to any supernumerary official appointed as such on or before the effective date of this act.

Section 5. Any official who is eligible to participate in the supernumerary program provided by this chapter, and who is participating or eligible to participate in any other state or county retirement program, shall elect whether he shall participate in the supernumerary program provided by this chapter or in such other retirement program. Election to participate in the supernumerary program provided by this chapter shall be made in writing to the county governing body of the county in which such official is serving within sixty days following the effective date of this act, or within sixty days after taking office as such official, whichever last occurs. If such official is participating in any other state or county retirement program, he or she shall simultaneously withdraw from such program. Upon election to participate in the supernumerary program provided by this chapter, such official shall immediately pay to the county tax collector, or to such other official charged with collecting ad valorem taxes, for each prior year of eligible service to which he or she is entitled credit, such sum as he or she would have paid had he or she been participating in the supernumerary program during such year of service, and the tax collector or other such official shall thereupon distribute such sum as provided in section 40-6-4. Thereafter, such official shall be subject to the other applicable provisions of this chapter.

Section 6. Sections 40-6-5, 40-6-7, and 40-6-8, Code of Alabama 1975, relating to election to participate in the supernumerary tax collectors and tax assessors program, are hereby repealed.

Section 7. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. The provisions of this act shall become effective immediately upon the ratification of the Constitutional Amendment proposed by H.B. 348 of the 1991 Regular Session.

Approved August 8, 1991

Time: 4:55 P.M.

Act No. 91-685

H. 785 — Reps. Carothers, Johnson, Harper

AN ACT

To provide for the reopening of the employees' retirement system for certain active members who had employment with the Alabama Legislature prior to 1979.

Be It Enacted by the Legislature of Alabama:

Section 1. Any active and contributing member of the employees' retirement system, may hereby claim and purchase credit in the employees' retirement system for up to four years' time for employment by the Alabama Legislature pursuant to Chapters 4, 5 and 7 of Title 29 of the Code of Alabama 1975, prior to 1979, provided, that such member shall pay into the employees' retirement system the total amount he would have contributed had he been allowed to contribute at the position and salary level, together with interest not to exceed eight percent compounded annually from the date of service to the date of payment, and provided that he shall make such payment within one year from the effective date of this act. Provided, further, any active and contributing member who has previously purchased credit for said service rendered prior to 1979 is prohibited from purchasing such credit for the same service.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:30 P.M.

Act No. 91-686

H. 247 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Children's and Women's Hospital in Mobile, Alabama, for the fiscal year 1991-92, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Children's and Women's Hospital in Mobile, Alabama, for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of four hundred forty-two thousand eight hundred eighty-eight dollars (\$442,888).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:41 P.M.

Act No. 91-687

H. 872 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Helen Keller Eye Research Foundation for the fiscal year 1991-92 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Helen Keller Eye Research Foundation, for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of three hundred twenty-seven thousand two hundred fifty dollars (\$327,250).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:26 P.M.

Act No. 91-688

H. 240 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of Tuskegee University for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of three million six hundred forty-six thousand five hundred dollars (\$3,646,500) from the Alabama Special Educational Trust Fund to Tuskegee University.

SECTION 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

SECTION 3. This Act shall become effective October 1, 1991.

Approved August 8, 1991

Time: 5:13 P.M.

Act No. 91-689

H. 270 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Lyman Ward Military Academy for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of two hundred thousand five hundred seventy-two dollars (\$200,572) from the Alabama Special Educational Trust Fund to the Lyman Ward Military Academy.

SECTION 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

SECTION 3. This Act shall become effective October 1, 1991.

Approved August 8, 1991

Time: 4:46 P.M.

Act No. 91-690

H. 219 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Central Alabama Opportunities Industrialization Center for the fiscal year

1991-92 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Central Alabama Opportunities Industrialization Center from the Alabama Special Educational Trust Fund, the sum of one hundred two thousand nine hundred twenty-five dollars (\$102,925).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:08 P.M.

Act No. 91-691

H. 242 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Walker County Junior College for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of five hundred fifteen thousand seven hundred fifty-nine dollars (\$515,759) from the Alabama Special Educational Trust Fund to the Walker County Junior College.

SECTION 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

SECTION 3. This Act shall become effective October 1, 1991.

Approved August 8, 1991

Time: 4:42 P.M.

Act No. 91-692

H. 208 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Children's Hospital in Birmingham, Alabama, for the fiscal year 1991-92 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Children's Hospital in Birmingham, Alabama, for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of six hundred seventy-three thousand nine hundred sixty dollars (\$673,960).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:09 P.M.

Act No. 91-693

H. 271 — Rep. Harper

AN ACT

To make an appropriation for the support and maintenance of the Coosa Valley Medical Center School of Nursing for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of ninety-six thousand nine hundred sixty-three dollars (\$96,963) from the Alabama Special Educational Trust Fund to the Coosa Valley Medical School of Nursing.

SECTION 2. The Department of Examiners of Public Accounts is hereby authorized and empowered to audit the records of the said institution to the same extent, degree, and scope as its audits of public educational institutions, and said institution shall submit to the Legislature each year before any subsequent appropriation requests may be considered by the Legislature, a full accounting of its receipts, disbursements, assets, liabilities, and other resources as of the date of the close of its immediately preceding academic year.

SECTION 3. This Act shall become effective October 1, 1991.

Approved August 8, 1991

Time: 4:50 P.M.

Act No. 91-694

H. 659 — Rep. Harper

AN ACT

To amend Sections 40-7-1, 40-12-255, 40-12-252, 40-11-1, 40-8-1 and 32-8-2, of the Code of Alabama 1975, relating to mobile homes so as to redefine mobile homes as "manufactured homes" and to provide for the registration and issuance fee for manufactured home decals, provide further for ad valorem taxes on manufactured homes, provide for penalties for certain violations, provide for distribution of the fees, and provide for certain exemptions from the registration fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-7-1 of the Code of Alabama 1975, is hereby amended as follows:

"§40-7-1.

"The tax assessor or other assessing official in each of the several counties shall have the right and authority to assess all real estate, together with improvements thereon, and all personal property to the party last assessing the same, or to the owner of record, except such real estate and personal property which is now or may hereafter be assessed by the department of revenue. The failure of the tax assessor or other assessing official to assess said property to the true owner shall not invalidate the assessment. The tax assessor or other assessing official shall have the right and authority to prescribe the proper bookkeeping method to carry out the provisions of this article, subject to the approval of the chief examiner of public accounts. Should the owner of any real estate make improvements on such property, or should any improvements be removed or destroyed or partially removed or destroyed during any taxable year, it shall be the duty of such

owner to make a tax return between October 1 and prior to January 1 covering all such changes made subsequent to October 1 of the preceding tax year. Improvements partially completed on October 1 shall be reported to the tax assessor or other assessing official by the owner thereof and shall be assessed as incomplete for that tax year. It shall be the duty of any person who purchases real estate prior to October 1 of any taxable year and who owns said real estate on that date to report such purchase to and assess that property with the tax assessor or other assessing official between October 1 and prior to January 1 following such purchase. No penalty shall be charged such taxpayer for failure to report the purchase or sale of any real estate.

(b) Every person, firm or corporation who owns, maintains, or keeps a manufactured home shall receive a decal upon the payment of the ad valorem tax on said manufactured home. Said decals shall be designed by the state department of revenue and displayed on the manufactured home for which the ad valorem taxes were paid, as set out in Paragraph A of Section 40-12-255.

This decal shall take the place of all other decals of any county or municipality, and there will be no other decals required. Said decal shall be proof of payment of said ad valorem taxes.

Section 2. Section 40-12-255 of the Code of Alabama 1975, is hereby amended as follows:

“§40-12-255.

“(a) Every person, firm or corporation who owns, maintains or keeps in this state a manufactured home as defined according to Subsection (n) of this Section, except a manufactured home that constitutes a part of the inventory of a manufacturer or dealer, shall pay an annual registration fee of \$24.00 for an owner occupied single wide (one transportable module) manufactured home, \$48.00 for an owner occupied double wide or larger (two or more transportable modules) manufactured home, \$48.00 for a commercial single wide (one transportable module) manufactured home, or \$96.00 for a commercial double wide or larger (two or more transportable modules) manufactured home, provided, however, that any manufactured home 10 years of age or greater but less than 20 years of age shall pay 75% of the above stated fees, and any manufactured home 20 years of age or greater shall pay 50% of the above stated fees; and upon payment thereof such owner shall be furnished an identification decal, designed by the Department of Revenue and color coded to denote the size and year issued, which shall be immediately attached to and at all times thereafter displayed at eye level on the outside finish of the Manufactured Home for which the registration fee was paid, and one foot from the

corner on the right side facing the street, so as to be clearly visible from the street. The registration fee hereby provided for shall be paid in the county in which such manufactured home is customarily kept to the same county official who normally collected Ad Valorem tax on manufactured homes prior to the passage of this act; provided, however, that the responsibilities for administering the provisions of this law may be transferred to another county official with the mutual consent of the elected county officials involved. The fee shall be due, and payable on October 1 of each year and delinquent if not paid before December 1 of each year. For the year beginning October 1, 1991, the registration fee shall be in lieu of the Ad Valorem taxes that would have been due and payable on October 1, 1991, and any taxpayer who pays the registration fee on his manufactured home between October 1, 1991 and November 30, 1991, shall not be subject to any delinquent ad valorem taxes or fees. The owner of the manufactured home shall furnish to the registration official the make, model, year, length, width, number of transportable modules and serial number of the manufactured home and the registration official shall furnish a receipt to the manufactured home owner containing the above referenced information. The registration fee shall be disbursed by the collecting official by the 20th of the month following the month of collection and shall be disbursed as follows, 25% to the state general fund, 25% to the county general fund, 25% to the county school board except that if the manufactured home is located within a city school district then the 25% shall go to the city school board, and 25% to the city or municipality in which the manufactured home is located, except that if the manufactured home is not located within a municipal corporate limits then the county general fund will receive the 25% share that would have gone to the municipality. The official collecting such registration fees and issuing such identification decals in evidence of payment thereof shall also collect a \$5.00 issuance fee to be distributed as follows: \$4.00 to the county general fund if the issuing official is on salary and if the issuing official is on the fee system, then the \$4.00 issuance fee shall go to the issuing official, and the remaining \$1.00 shall accrue to an account in the office of the county treasurer for use by the issuing official or designated representative, and such accumulated moneys shall be used only for administering or enforcing the manufactured home laws.

(b) The owner of any manufactured home who fails to pay the registration fee hereby provided for shall be subject to a delinquent fee of \$10.00 if payment is made on or after December 1, or if the manufactured home owner fails to pay the registration fee or if the owner fails to display the identification decal on such manufactured home, as hereinabove required. Furthermore, the owner shall be

subject to a citation fee of \$15.00 and if the registration fee and citation fee are not paid within 15 calendar days of date cited a penalty of \$24.00 will be assessed against the owner of the manufactured home. The county license inspector or deputy license inspector shall have authority to issue citations and assess penalties. The county official charged with the responsibility of administering this law shall have the authority to designate employees of his office or by mutual consent of the tax assessor, employees of the tax assessor's or appraisal office as deputy license inspectors. The delinquent fee and penalty shall be distributed in the same manner as the registration fee. The citation fee shall accrue to the county general fund if the citation is issued by the county license inspector's office. The citation fee shall accrue to an account in the office of the county treasurer for use by the assessor, collector, license commissioner, or revenue commissioner if an employee of that office issues the citation, and the citation fee shall be used only for administering and enforcing the manufactured home laws. The official responsible for administering the provisions of this section must collect all fees and penalties due before a decal may be issued to the manufactured home owner. The penalties set out under 32-6-65(b) are not applicable to manufactured homes.

(c) The owner or lessor of the real estate on which any manufactured home is situated shall report the name and address of the owner of such manufactured home at such times as the commissioner of revenue may require on forms furnished by the department of revenue. The commissioner and the state department of revenue are hereby empowered to promulgate and enforce any rules or regulations reasonably necessary to administer the provisions of this chapter, including but not limited to, notice, hearings and appeals processes.

(d) Any public or private entity that provides or sells any gas or electric services and connects such services to any manufactured home shall, not less often than monthly, report to the county tax assessing official a list containing each such manufactured home connected to such service during the period preceding the report, together with the name of the occupant and the location of the connection.

(e) The manufactured home owner shall furnish to the county official charged with the responsibility of administering this law a copy of the prior year's registration receipt, unless such manufactured home is new and a registration decal has never been issued, in which case the county official charged with the responsibility of administering this law shall be furnished a bona fide bill of sale from the dealer showing when the manufactured home was bought and a certificate of title issued by the Alabama department of revenue or

application for a certificate of title for a 1990 or subsequent year model manufactured home or, in the case of a used manufactured home brought into the state from any other state the county official charged with the responsibility of administering this law shall be furnished a bona fide certificate of title, manufacturer's certificate of origin or bill of sale, properly assigned, showing when the manufactured home was sold to an individual, firm, corporation or association now living or operating in this state. If such bill of sale or certificate of title is not furnished, the manufactured home will be presumed to have been in the state for the two previous years and the registration fee shall be immediately due and payable for the two previous years plus the current year, but in no case will the registration fee be due and payable for any period prior to October 1, 1991.

(f) Manufactured homes brought into the state during any tax year, new manufactured homes for which registration decals have never been issued, or manufactured homes sold from the stock of a dealer or otherwise acquired during any tax year, shall be subject to registration the same as if they had been held or owned in the state on October 1; except, that registration fees thereon shall be assessed on a quarterly basis as follows:

(1) Manufactured homes brought into the state or sold from stock after October 1, but before January 1 following, shall be subject to registration the same as if held or owned in the state on October 1.

(2) Manufactured homes brought into the state or sold from stock after the last day of December, but before April 1 following, shall be subject to registration for three quarters of the tax year.

(3) Manufactured homes brought into the state or sold from stock after the last day of March, but before the first day of July following, shall be subject to registration for one half of the tax year.

(4) Manufactured homes brought into the state or sold from stock after the last day of June, but before October 1, following, shall be subject to registration for one fourth of the tax year.

(g) Any person, firm, or corporation acquiring a new manufactured home or bringing a manufactured home into the state for the first time, except a manufactured home which constitutes a part of the inventory of a dealer or manufacturer, shall have 30 calendar days from the date of the bill-of-sale or from the date the manufactured home entered the state for the first time to register said manufactured home without a delinquent fee.

(h) Manufactured homes shall not be included in any assessment for ad valorem tax purposes made by any person, firm or corporation unless said manufactured home meets the requirements

of subsection (15) of 40-11-1. Any manufactured home that is assessed for ad valorem tax purposes under subsection (15) of 40-11-1 shall not be subject to registration.

(i) Any owner occupied manufactured home owned by any person over the age of 65 or any owner who is totally disabled shall be exempt from paying the annual registration fee. The exemption must be claimed annually by the manufactured home owner between October 1 and November 30. Proof of age shall only be required once and a copy of proof may be kept on file. Proof of disability may be, but shall not be limited to, the written certification of such total disability by any two physicians licensed to practice in this state. The payment of the \$5.00 issuance fee will be required in order to receive the exemption and decal.

(j) No manufactured home may be moved on the roads or highways of Alabama unless one of the following provisions are met:

(1) Every person, firm, or corporation who owns, maintains, or keeps in this state a manufactured home, must obtain a permit to move said manufactured home on the highways of Alabama. The permit shall be obtained from the county official who administers the manufactured home registration laws. Proof of payment of the current registration fee, issuance fee, and any applicable penalties shall be required before the moving permit shall be issued. Manufactured home dealers shall not be required to obtain a moving permit when moving a manufactured home that is part of dealer's inventory or moving a manufactured home for the first time after a sale of such manufactured home from dealer's inventory as evidenced by a bill of sale or bill of lading.

(2) If the manufactured home is owned by a dealer, manufacturer, lien holder, or an out-of-state person, firm, or corporation and is being transported within or through the state of Alabama, or entering the state of Alabama for the first time, then proof of ownership of said manufactured home by said person, firm, or corporation as evidenced by a tag, decal, bill-of-sale, bill of lading, or title shall be sufficient and a permit will not be required; provided, however, that a lien holder will be required to notify, in writing, within 10 days of moving any manufactured home, the county official charged with the responsibility of administering this law, and such official shall send a notice of any delinquent taxes, if applicable within 10 days, and lien holder shall pay delinquent tax within 30 days of being notified.

(3) The above referenced moving permit shall be in addition to any other moving permits required by law.

(4) The provisions of this section shall be enforced by any law enforcement officials in the state of Alabama. Any person, firm, or corporation moving a manufactured home on the roads or highways

of Alabama without a moving permit shall be issued a traffic citation for failure to have in possession the required moving permit and shall be guilty of a class C misdemeanor; and upon conviction thereof shall be subject to a fine of not less than \$50.00.

(5) The issuing official shall charge a \$10.00 fee for the above-referenced moving permit. One-half of said fee shall accrue to the county general fund to cover the costs of obtaining and issuing said permits, and the remaining one-half shall accrue to the State Road and Bridge Fund.

(6) The department of revenue shall design the above referenced moving permit and shall promulgate rules and regulations for their use.

(k) Any person, firm, or corporation required to register a manufactured home under the provisions of this article must show proof of payment of sales/use tax before the decal may be issued.

(l) Any person violating any provision of this article shall be guilty of a class C misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$50.00.

(m) All manufactured homes owned by the United States Government, the State of Alabama, and county or municipal corporations are exempt from the registration fees provided for under this section.

(n) For purposes of administering the provisions of this section the definition of "manufactured home" shall be the following: A structure, transportable in one or more sections, and which is built on a permanent chassis, and not designed normally to be drawn or pulled on the highway except to change permanent locations but is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems, if any, contained therein. It may be used as a place of residence, business, profession, trade or for any other purpose, by the owner, lessee, or assigns and may consist of one or more units that can be attached or joined together.

(o) For the purposes of administering the provisions of this section, the definition of a manufactured home used for commercial purposes shall be any manufactured home except an owner-occupied manufactured home used as a single family residence."

Section 3. Section 40-12-252 of the Code of Alabama 1975, is hereby amended as follows:

§40-12-252.

"(a) For each trailer, other than manufactured homes, and each semitrailer operated on the public highways of this state, the

following annual license taxes and registration fees are hereby imposed and shall be charged:

(1) For each privately owned utility trailer or travel trailer, which is not operated for hire, lease or rental, \$12.00;

(2) For each utility trailer, rented or leased for compensation of any kind or nature, \$15.00;

(3) For each truck or tractor trailer or semitrailer, \$20.00; and provided, that any trailer or semitrailer used by a farmer exclusively for transporting farm products to and from market or for transporting the personal property of a farmer for his own use on the farm shall not be subject to the license taxes and registration fees provided for in this section. Trailers of any kind or description for hauling passengers for hire are prohibited by law and shall not be licensed under this article.

(b) At the option of the owner, a fleet of 50 or more rental utility trailers, or truck trailers, tractor trailers or semitrailers excluding any manufactured homes, required to be licensed in this section may be registered for a period of five years, or any number of years to be designated by the commissioner, provided the following requirements are met:

(1) The application shall be made on forms prescribed by the commissioner and shall contain such information as the commissioner may require.

(2) Upon receipt of proper application and fees, there shall be issued for each trailer in the fleet a registration plate which shall be valid for the number of years specified. All plates issued to a fleet shall expire on the last day of the final month of the period for which issued. Should the fleet owner add trailers during the registration period, the registration of the additional trailers shall expire on the same day as the original fleet of trailers are to expire.

(3) The fleet owner shall be required to pay all registration renewal fees due each year for all trailers registered in his fleet prior to the expiration date. If the renewal fees are not paid, all license plates and registrations in the fleet shall be cancelled.

(c) The department of revenue shall have the authority to develop and promulgate reasonable rules and regulations as needed to administer the provisions of this section."

Section 4. Section 40-11-1 of the Code of Alabama 1975, is hereby amended as follows:

"§40-11-1.

"(a) As used in this section the following terms shall have the meanings ascribed herein:

(1) **CONSTRUCTION PURPOSES.** The normal and ordinary meaning of the words, except that mining activities or the transportation of materials used in or produced by mining or forestry activities shall not be construed to be included;

(2) **HEAVY DUTY EQUIPMENT.** Any motor vehicle used primarily off the open road for construction purposes, including all road construction equipment whose gross weight exceeds 16,000 pounds, but not including inventory on hand for sale by duly licensed equipment dealers.

(b) The subjects of ad valorem taxation, except as exempted by law, shall be as follows:

(1) Every piece, parcel, tract or lot of land in this state, including therein all things pertaining to such land, and all structures and other things so annexed or attached thereto as to pass to a vendee by conveyance of such land; and every separate or special interest in any land, such as minerals, the right to mine minerals, the right to turpentine, oil or petroleum, natural gas and the right to remove same from the soil, or any other interests when such interests are owned by persons other than the owner of the surface or soil, except growing crops, standing timber or any tree, bush, vine or other growing thing from which a crop is harvested;

(2) All docks, wharves, wharf boats, landings, warehouses, toll bridges, ferries, canals, passes, channels, turnpikes, all street railroads, printing presses and materials;

(3) All steamboats, barges, vessels and watercraft of every name and kind however propelled, plying waters of this state, and the owner thereof shall return same for taxation to the assessors in the county wherein he resides; and, if such steamboat, barge, vessel or watercraft is owned by a corporation, then in that county where its principal office is located; in the case of the owner's being an individual not residing in this state or being a corporation with no principal office in this state, then in the county or counties where used; all such steamboats, barges, vessels or watercraft whether owned by a resident or nonresident of this state, which have acquired a permanent situs in this state. All transfer boats, steamboats or barges used by any railroad in transferring cars and passengers must be assessed and taxed in the county or counties where used, or where the owner resides, regardless of where such vessel may be registered;

(4) All stocks of goods, wares and merchandise, the assessment to be on the average amount on hand during the preceding year, except in cases where business is commenced on or after October 1 of a current year, and in such cases the assessment to be on the capital actually employed in the business and apportioned

as hereinafter provided, but the amount so assessed for any whole year shall in no case be less than the capital actually employed in the business, and this shall include all goods, wares and merchandise kept on plantations or elsewhere, or by railroad companies or persons, for sale or to be dealt out to laborers or employees for profit, or on account of their wages, and shall include all goods, wares and merchandise offered for sale by any person commencing business subsequent to October 1 of a current year, but in such case the tax shall be apportioned according to the date at which the business was commenced, so that if commenced after January 1, the tax shall be three fourths of the tax for the whole year; if commenced after April 1, the tax shall be one half of the tax for the whole year; provided, that the assessment herein provided for shall not include products raised on the farms in the hands of the original producers. If the person, association or corporation, receiver or trustee carrying on such business shall fail to make return of the amount of stock of goods, wares and merchandise as provided by law, or if the county tax assessor is not satisfied with the return made, in order to make proper assessment, he shall have the right to demand a copy of the last inventory made of such stock of goods, wares or merchandise, and may also by inquiry of persons believed to have knowledge of the subject obtain information as to the probable average amount of such stock, and from such information may assess the same upon his best judgment;

(5) All household and kitchen furniture, mechanical and electrical refrigerators, libraries, jewelry, precious stones, plates and silverware, ornaments and articles of taste, pianos and other musical instruments, paintings, clocks, gold, silver and other watches and gold and other safety chains, all wagons and other vehicles; all motor cars, automobiles, trucks, buses, tractors, motorcycles and other motor vehicles and bicycles; travel trailers, utility trailers, semitrailers, and all other trailers of any kind; all outboard motors; airplanes, airships and other aircraft and aircraft landing fields and equipment; all typewriters; all cash registers; all calculating machines; all bookkeeping machines, teletypes, dictaphones and other recording or sending apparatus or machines; all phonographs and all machines of like character; all radio sending and receiving sets and appliances; all iron safes and cabinets, all store fixtures, all office furniture and fixtures; all mechanical tools and farming implements; all tanks, all storage reservoirs or basins; all golf bags, golf sticks and all other sporting goods; all pistols and guns; all cattle and horses, mules, studs, jacks and jennets; all hogs, sheep and goats, except as specifically exempted; all x-ray machines; all lens grinding machines, all eye-testing machines, all surgical instruments and all other instruments or appliances used in surgical, dental, medical, optometrical or other professional work;

(6) All money hoarded, whether in the custody of the owner in this state, or in another state, or in any safety deposit box, safe or vault, or elsewhere, except money on deposit in banks which is specifically exempted from taxation;

(7) All investments in bonds, except bonds of the United States, the state of Alabama and of counties and municipalities of this state, warrants or other obligations of county and city school boards in this state, and such other bonds as are not by law taxable; and all capital invested in bonds or currency which are exempt from taxation shall be liable to be taxed under this section should such capital at any time during the year be reconverted into money, bonds or property which is taxable, unless it is made to appear that the money, bonds or property into which such reversion may be made has been assessed for taxes for such year;

(8) All roadbed, track, engines, cars, derricks, cranes, signals, crossties and other property, real and personal, of railroads, of mining and manufacturing plants, and all tramroads, pole-roads, canals, ditches and channels used for transporting or moving mineral ore, lumber, timber, logs, minerals, coal, ore, sand, gravel or other commodities, whether raw or manufactured, which are not taxed as improvements on the land or plant or main property, of the owner of such tramroads, pole-roads, canals, ditches or channels;

(9) Shares in corporations or associations, not incorporated under the laws of this state, except stock in national banks; in arriving at the value of shares of stock of a corporation or association for the purposes of taxation, whether said corporation is domestic or foreign, all dividends earned or declared and not distributed shall be treated as assets of said corporations;

(10) On the gross amount of sales of goods, wares and merchandise owned by nonresidents made at auction in or during the tax year preceding the assessment of goods, wares and merchandise kept in stores for sale in the ordinary course of business, each auctioneer shall be assessed and shall pay a tax of one fourth of one percent, and each auctioneer shall pay a like tax on the gross amount of sales made by him of goods, wares and merchandise owned by citizens of this state which have been imported into this state and sold at auction before same have been assessed for taxes as other property; but on sales of goods, wares and merchandise and fruit by cargo at auction, the rate of taxation shall be one eighth of one percent;

(11) On the gross amount of commissions or sums charged and received during each year by any auctioneer; provided, that nothing herein contained shall be construed as levying a tax on commissions received for the sale or rental of real estate, or brokerage on loans or real estate or the underwriting of insurance;

(12) All the real and personal property of water companies, including pumping stations, reservoirs, standpipes, towers, pipelines, gates, valves, tunnels, canals and dams used in the business of supplying water to consumers for pay; all real and personal property of hydro-electric power, steam or other power and light companies; natural and manufactured gas companies and gas light companies, including all machinery, engines, dynamos, wires, poles, pipelines, tubes and appliances of every nature and description used in connection therewith; all real and personal property of every furnace, rolling mill, mine, quarry or manufacturing establishment, including all machinery, all engines, hoisting engines, derricks and appliances of every nature used in the business; all dams across rivers and creeks; all real and personal property of cotton gins, cotton mills, cotton compresses, cottonseed oil mills, grain elevators, flour and grist mills, molasses and syrup mills, paper mills, chemical plants or manufactories, fertilizer factories or mixing plants; all peanut oil mills and peanut mills, creosoting plants, concrete mixing plants, crosstie plants and stave mills and heading mills;

(13) All property, real and personal, of all cement plants, lime plants, plaster plants or quarries or other manufacturing, mining or quarrying plants not herein specifically exempted;

(14) All property, including heavy duty equipment, used for construction purposes.

(15) All manufactured homes located on land owned by the manufactured home owners, except those manufactured homes rented or leased for business purposes, other than those manufactured homes in the inventory of a manufactured home dealer or manufacturer.

(16) All other property, real, personal or mixed, not hereinbefore specified, of whatever class, whether ejusdem generis or not, except as herein specifically exempted, which said property shall be assessed and specifically described.

(c) (1) All property described in section 40-11-1(b)(14) brought into the state after October 1 of any tax year and before the assessor has completed his assessment, shall be subject to taxation the same as if it had been held or owned in the state on October 1. In addition, heavy duty equipment brought into the state after October 1 and after the assessor has completed his assessment shall be subject to taxation the same as if it had been held or owned in the state on October 1; except that such tax shall be prorated with respect to the number of months remaining in the year.

(2) Property described in section 40-11-1(b)(15) shall be taxed as realty.

Section 5. Section 40-8-1 of the Code of Alabama 1975, is hereby amended as follows:

“§40-8-1.

"(a) On and after October 1, 1978, with respect to ad valorem taxes levied by the state, and, unless otherwise provided, with respect to ad valorem taxes levied by a county, municipality or other taxing authority other than the state, all taxable property shall be divided into the following classes and no other and shall be assessed for ad valorem tax purposes at the following ratios of assessed value to the fair and reasonable market value of such property, or, as may be provided by law, to the current use value of such property:

Class I. All property of utilities used in the business of such utilities, 30 percent.

Class II. All property not otherwise classified, 20 percent.

Class III. All agricultural, forest and residential property, and historic buildings and sites, 10 percent.

Class IV. All private passenger automobiles and motor trucks of the type commonly known as "pickups" or "pickup trucks" owned and operated by an individual for personal or private use and not for hire, rent or compensation, 15 percent.

(b) As used herein, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **AGRICULTURAL AND FOREST PROPERTY.** All real property used for raising, harvesting and selling crops or for the feeding, breeding, management, raising, sale of or the production of livestock, including beef cattle, sheep, swine, horses, ponies, mules, poultry, fur-bearing animals, honeybees and fish, or for dairying and the sale of dairy products, or for the growing and sale of timber and forest products, or any other agricultural or horticultural use or animal husbandry and any combination thereof.

(2) **HISTORIC BUILDINGS AND SITES.** Regardless of the use to which such property is put, all buildings or structures (i) determined eligible by the state historic preservation officer for listing on the National Register of Historic Places; or (ii) located in a registered historic district and certified by the United States secretary of the interior as being of historic significance to the district.

(3) **PRIVATE PASSENGER AUTOMOBILES AND MOTOR TRUCKS OF THE TYPE COMMONLY KNOWN AS "PICKUPS" OR "PICKUP TRUCKS" OWNED AND OPERATED BY AN INDIVIDUAL FOR PERSONAL OR PRIVATE USE AND NOT FOR HIRE, RENT OR COMPENSATION.** All private passenger automobiles, as that term is defined in sections 40-12-240, subdivision (12), and 40-12-241; and all motor trucks of the type commonly known as "pickups" or "pickup trucks," weighing not exceeding 8,000 pounds gross weight.

(4) **PROPERTY NOT OTHERWISE CLASSIFIED.** All real and personal property which does not fall within any one or more of Classes I, III and IV.

(5) **PROPERTY OF UTILITIES.** All property assessed for taxation by the department of revenue pursuant to the provisions of chapter 21 of this title; provided, that after September 30, 1979, and only to the extent required by Title III, <306 of Pub. L. 94-210 (the Railroad Revitalization and Regulatory Reform Act of 1976, codified as 49 U.S.C. <26c), "transportation property," as that term is defined in the aforesaid statute, as heretofore or hereafter amended, or in any subsequent statute of similar import, shall not be assessed as Class I property.

(6) **RESIDENTIAL PROPERTY.** Only real property, used by the owner thereof exclusively as the owner's single-family dwelling.

(c) Wherever any statute provides for, limits or measures the power or authority of any county, municipality or other taxing authority to levy taxes, borrow money or incur indebtedness in relation to the assessment of property therein for state taxes or for state and county taxes, such provision shall mean as assessed for county or municipal taxes.

(d) The following property shall be exempted from ad valorem taxation: the real and personal property of the state, counties and municipalities and real and personal property devoted exclusively to religious, education or charitable purposes. The property of Masonic lodges, Knights of Columbus homes and union halls shall be exempt when used exclusively for the purposes and business of such organizations. All property now exempt by law shall continue to be exempt from taxation until changed by law.

(e) The department of revenue shall have authority to promulgate rules and regulations for the uniform identification and assessment of manufactured homes."

Section 6. Section 32-8-2 of the Code of Alabama 1975, is hereby amended as follows:

"§32-8-2.

"For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **CURRENT ADDRESS.** A new address different from the address shown on the application or on the certificate of title. The owner shall within 30 days after his address is changed from that shown on the application or on the certificate of title notify the department of the change of address in the manner prescribed by the department.

(2) **DEALER.** A person licensed as an automobile or motor vehicle dealer, manufactured home dealer, or travel trailer dealer and engaged regularly in the business of buying, selling or exchanging motor vehicles, trailers, semitrailers, trucks, tractors or other character of commercial or industrial motor vehicles, manufactured homes or travel trailers in this state, and having in this state an established place of business.

(3) **DEPARTMENT.** The department of revenue of this state.

(4) **DESIGNATED AGENT.** Each judge of probate, commissioner of licenses, director of revenue or other county official in this state authorized and required by law to issue motor vehicle license tags, who may perform his duties under this chapter personally or through his deputies, or such other persons, as the department may designate; the term shall also mean those "dealers" as herein defined who are appointed by the department as herein provided in section 32-8-34 to perform the duties of "designated agent" for the purposes of this chapter; such "dealers" may perform their duties under this chapter either personally or through any of their officers or employees.

(5) **IMPLEMENT OF HUSBANDRY.** Every vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to licensing or registration if used upon the highways.

(6) **LIEN.** Every kind of written lease which is substantially equivalent to an installment sale or which provides for a right of purchase, conditional sale, reservation of title, deed of trust, chattel mortgage, trust receipt, and every written agreement or instrument of whatever kind or character whereby an interest other than absolute title is sought to be held or given on a motor vehicle or manufactured home.

(7) **LIENHOLDER.** Any person, firm, copartnership, association or corporation holding a lien as herein defined on a motor vehicle or manufactured home.

(8) **MANUFACTURER.** Any person regularly engaged in the business of manufacturing, constructing, assembling, importing or distributing new motor vehicles or manufactured homes, either within or without this state.

(9) **MANUFACTURED HOME.** A structure, transportable in one or more sections, and which is built on a permanent chassis, and not designed normally to be drawn or pulled on the highway except to change permanent locations, but is designed to be used as a dwelling, with or without a permanent foundation, when connected

to the required utilities, including the plumbing, heating, air conditioning and electrical systems, if any contained therein. It may be used as a place of residence, business, profession, trade or for any other purpose, by the owner, lessee, or assigns and may consist of one or more units that can be attached or jointed together. Except for Article I (definitions), wherever in Chapter 8, Title 32, Code of Alabama, 1975, as amended, the terms vehicle or motor vehicle shall appear, they shall be deemed to refer also to manufactured homes.

(10) **MOTOR VEHICLE.** Such term shall include:

a. Every automobile, motorcycle, mobile trailer, semitrailer, truck, truck tractor, trailer and other device which is self-propelled or drawn, in, upon or by which any person or property is or may be transported or drawn upon a public highway except such as is moved by animal power or used exclusively upon stationary rails or tracks;

b. Every trailer coach, and travel trailer manufactured upon a chassis or undercarriage as an integral part thereof drawn by a self-propelled vehicle.

(11) **NEW VEHICLE OR MANUFACTURED HOME.** A motor vehicle or manufactured home that has never been the subject of a first sale for use.

(12) **NONRESIDENT.** Every person who is not a resident of this state.

(13) **OWNER.** A person, other than a lienholder, having the property in or title to a vehicle or manufactured home. The term includes a person entitled to the use and possession of a vehicle or manufactured home subject to a security interest in another person, but excludes a lessee under a lease not intended as security. Under any lease-purchase or installment sales agreement where a governmental agency, either city, county or state, is the lessee or purchaser with a security interest or right to purchase, such lessee or purchaser shall be the owner for purposes of this chapter.

(14) **PERSON.** Such term shall include every natural person, firm, copartnership, association or corporation.

(15) **POLE TRAILER.** Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as logs, poles, pipes, boats or structural members capable generally of sustaining themselves as beams between the supporting connections.

(16) **SCRAP METAL PROCESSOR.** Any person, firm, or corporation engaged in the business of buying scrap vehicles or

manufactured homes, automotive parts, or other metallic waste by weight to process such material into scrap metal for remelting purposes, who utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

(17) **SCRAP VEHICLE OR MANUFACTURED HOME.** Any vehicle or manufactured home which has been crushed or flattened by mechanical means or which has been otherwise damaged to the extent that it cannot economically be repaired or made roadworthy.

(18) **SECURITY AGREEMENT.** A written agreement which reserves or creates a security interest.

(19) **SECURITY INTEREST.** An interest in a vehicle or manufactured home reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions.

(20) **SPECIAL MOBILE EQUIPMENT.** Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over the highway, including but not limited to: ditch-digging apparatus; well-boring apparatus; road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, and self-propelled cranes; and earth-moving equipment. The term does not include manufactured homes, dump trucks, truck-mounted transit mixers, cranes or shovels or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(21) **STATE.** A state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.

(22) **TRAVEL TRAILER.** A vehicle without motive power, designed and constructed as a camping vehicle or a temporary dwelling, living or sleeping place and designed to be drawn or pulled on the highway, but not including folding or collapsible camping trailers and manufactured homes as defined herein.

(23) **USED VEHICLE OR MANUFACTURED HOME.** A motor vehicle or manufactured home that has been the subject of a first sale for use, whether within this state or elsewhere.

(24) **VEHICLE OR MANUFACTURED HOME IDENTIFICATION NUMBER.** The numbers and letters on a motor vehicle or

manufactured home designated by the manufacturer or assigned by the department for the purpose of identifying the motor vehicle or manufactured home.”

Section 7. The Department of Revenue is hereby authorized to adopt, promulgate and enforce reasonable rules and regulations relating to the administration and enforcement of the provisions of this chapter not in conflict with the specific provisions thereof.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this act are hereby repealed.

Section 10. This act shall become effective for tax years beginning October 1, 1991.

Approved August 8, 1991

Time: 5:22 P.M.

Act No. 91-695

H. 1088 — Rep. Lindsey

AN ACT

Relating to Cherokee County; providing that the county commission shall have the power to exercise those home rule powers not reserved to the state by the Constitution of Alabama of 1901; providing that the home rule powers authorized for the county commission shall include but not be limited to: the power to levy and collect additional privilege license taxes, excise taxes, gasoline taxes and sales and use taxes; providing that any such tax levied by said county commission shall become law either with or without a referendum in the sole discretion of said county commission; and providing for the disposition of the proceeds of such taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Subject to any limitation of the Constitution of Alabama or of any general law of this state, the Cherokee County Commission shall have the power to levy and provide for the collection of additional privilege license taxes, excise taxes, gasoline taxes and sales and use taxes. The proceeds from any of the taxes authorized above shall be collected by the state department of revenue, less any costs of collection, and shall be deposited into the county treasury to be used in the manner prescribed by the county commission or by law. The amount deducted from said proceeds by the department of revenue for the cost of collection shall be an amount equivalent to five percent (5%) of the revenue collected hereunder.

Section 2. The state department of revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this act. All such rules and regulations duly promulgated shall have the force and effect of law.

Section 3. The county commission of Cherokee County is hereby empowered and authorized to implement the additional taxes as provided for in Section 1 of this act.

Section 4. Any such additional tax levied by said county commission shall become law either with or without a referendum in the sole discretion of said county commission; in the event said county commission provides that said tax levied shall become law only upon approval of a majority of those voting in any election called for by said county commission for such purpose, then said election shall be held not less than 30 days nor more than 90 days after said county commission adopts such a resolution.

Section 5. Subject to any prohibition of the Constitution of Alabama of 1901, or of any general law of the state, the Cherokee County Commission is hereby authorized to exercise home rule powers in matters other than taxation. Such powers shall be construed in *pari materia* with all laws or parts of laws relating to the authority of the commission.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are hereby repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. However, this Act shall be terminated on December 31, 1993.

Approved August 8, 1991

Time: 5:40 P.M.

Act No. 91-696

H. 567 — Reps. Hall, Freeman

AN ACT

Relating to Madison County; to provide for the election of the county superintendent of education at the expiration of the present tenure of office; to provide who may participate in said election; to provide for the election procedure; to provide for an interim appointment of the county superintendent of education in certain instances; to provide for the term of office and the method of filling vacancies; to

provide for the qualifications and duties of said office and to provide for the compensation paid to the county superintendent of education.

Be It Enacted by the Legislature of Alabama:

Section 1. At the time of expiration of the current contract held by the Madison County Superintendent of Education or at the time of any vacancy in the office of county superintendent of education prior to said contract expiration date, the superintendent of education for Madison County shall be elected by those electors of Madison County who reside in those areas of Madison County that are outside the boundaries of any other school system. The county superintendent of education shall be nominated and elected in the same manner as other county officers are nominated and elected under the state election laws. In order to provide for continuity in the county superintendent's office, the election for the county superintendent of education shall be held either in conjunction with any regularly scheduled countywide election to be held at a time that sufficiently precedes the expiration of the tenure of office of the current county superintendent of education, or at a special election called for the purpose of electing the county superintendent of education that likewise sufficiently precedes the expiration of the county superintendent's current tenure of office. The election shall be called by the probate judge of Madison County and the cost of the election shall be paid by the county. Subsequent elections shall be held every four years.

The elected superintendent shall take office on the date prescribed by general law and shall serve a term of four years. Any vacancy in the office of county superintendent of education in the time interim between the vacation of the office due to expiration of the contract of the prior county superintendent of education or due to other causes and the assuming of office by the first elected county superintendent of education shall be filled by the county board of education in the manner prescribed by general law. Said appointment shall terminate on the date the elected county superintendent of education assumes office. The interim appointee's compensation shall be set by the county board of education and the appointee shall serve at the pleasure of the county board of education.

Any vacancy in the office of county superintendent of education subsequent to the election of the county superintendent of education pursuant to the provisions of this act shall be filled by the county board of education for the duration of the unexpired term.

Section 2. The county superintendent of education shall possess all the qualifications prescribed for county superintendents of education by the general laws of the state, shall possess all the powers granted by the general laws of the state, and shall perform and discharge all the duties of county superintendents of education prescribed by the general laws of the state.

Section 3. The county superintendent of education shall receive an annual salary of an amount such as shall be set by the Madison County Board of Education.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 4:59 P.M.

Act No. 91-697

H. 645 — Rep. Harper

AN ACT

To make a supplemental appropriation for the sum of Twenty-five thousand dollars (\$25,000) to the Alabama Liquefied Petroleum Gas Board from the Alabama Liquefied Petroleum Gas Board Fund for the fiscal year ending September 30, 1991.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated from the Liquefied Petroleum Gas Board Fund to the Liquefied Petroleum Gas Board the sum of Twenty-five thousand dollars (\$25,000) for the fiscal year ending September 30, 1991.

Section 2. The provisions of the act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby specifically repealed.

Section 4. This act shall become effective immediately upon its passage and approval of the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:19 P.M.

Act No. 91-698

H. 618 — Rep. Blakeney

AN ACT

To alter or rearrange the boundary lines of the Town of Silas, Choctaw County, Alabama, so as to include within the corporate limits of said town all territory now within such corporate limits and also certain other territory contiguous thereto, in Choctaw County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines of the Town of Silas, Choctaw County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the Town of Silas and in addition thereto the following described territory, to wit:

In TOWNSHIP 9 NORTH, RANGE 4 WEST:

SECTION 1: The South 1/2 of the North 1/2; the Southeast 1/4; and, the North 1/2 of the Southwest 1/4.

SECTION 2: The North 1/2 of the South 1/2; and, the South 1/2 of the North 1/2.

SECTION 3: The South 1/2 of the Northeast 1/4; and, the North 1/2 of the Southeast 1/4.

SECTION 12: The West 1/2 of the Northeast 1/4; and, the Northwest 1/4 of the Southeast 1/4.

In TOWNSHIP 9 NORTH, RANGE 3 WEST:

SECTION 5: The South 1/2 of the North 1/2; the Northwest 1/4 of the Southwest 1/4; and, that part of the East 3/4 of the North 1/2 of the South 1/2 which lies North of Choctaw County Road No. 6.

SECTION 6: The Northwest 1/4; and, the South 1/2 of the Northeast 1/4.

SECTION 7: The South 1/2 of the Southwest 1/4.

SECTION 8: The Northwest 1/4 of the Northwest 1/4; the South 1/2 of the Southwest 1/4; and, the South 1/2 of the Northeast 1/4 of the Southwest 1/4.

SECTION 17: The Northwest 1/4 of the Northwest 1/4; and, the Southwest 1/4 of the Southwest 1/4.

SECTION 18: The North 1/2 of the Northwest 1/4; the Northeast 1/4; the North 1/2 of the Southeast 1/4; the Southeast 1/4 of the Southeast 1/4; and, the East twelve (12) acres of the Southwest 1/4 of the Southeast 1/4.

SECTION 19: The East fourteen (14) acres of the Northeast 1/4 of the Northeast 1/4.

and,

SECTION 20: The West 1/2 of the Northwest 1/4.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:19 P.M.

Act No. 91-699 H. 765 — Reps. McClain, Petelos, Newton (D),
Rogers (J), Barnes, McDowell

AN ACT

Relating to Jefferson County, to provide for the election procedures of the members of the city of Fairfield city council, by single-member districts and one at-large member in addition to the mayor; to further provide for the residency qualifications for such councilmen and the manner of filling a vacancy; to require certification of any ordinance together with a map or plat of the district boundaries and the filing of such documents by the city clerk in the office of the judge of probate; to provide for the organization of the city council and the powers to be vested therein and/or to be exercised by such council; and to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The city government of the city of Fairfield in Jefferson County, may adopt a mayor-council form of government consisting of six single-member districts with one at-large member, to be designated as president of the city council, which shall be in addition to the office of the mayor.

Section 2. (a) The city council of the city of Fairfield, may, not less than six months prior to the next regular general municipal election in 1992, by ordinance adopted by a majority of the membership of the council, divide the municipality into six single-member districts and designate said districts as numbers one through six. pursuant to subsection (b) of this section. The ordinance shall provide that candidates for election for a place on the council shall reside within the boundaries of the district for which he or she seeks election, and shall continue to so reside in the district he or she represents so long as he or she remains a member of the council. Candidates for election to a place on the council shall have resided within the district from which he or she seeks election for a period of 90 days immediately preceding the date of the election. Only electors

residing within a district shall be entitled to vote for candidates seeking election for said district.

(b) Establishment of the six single-member districts provided for by this act, and the composition and description of same by metes and bounds, shall, as nearly as practicable, conform to the six wards established by Ordinance No. 794 of the city council of the city of Fairfield, adopted December 21, 1987, and approved, together with Ward Plan "A," by the United States Department of Justice, Civil Rights Division, pursuant to the 1965 Voting Rights Act, as amended, on March 28, 1988, and said Ordinance and Ward Plan "A" is hereby adopted by reference as if fully set out herein. Said districts established as provided by this act, shall be as nearly equal in population as is practicable. The municipal clerk, within five days after adoption by the city council of the changes provided for by this act, or before, shall file with the judge of probate of the county in which the municipality lies, a certified copy of such Ordinance No. 794, together with supporting documents and accompanied by a map or plat of the city, showing the boundaries of such wards. The municipal clerk shall also file with the judge of probate such ordinance adopted by the city council enacting the changes in the government of the city of Fairfield provided for by this act, along with such supporting documents and map or plat of the city, as may be required by law or necessary to show the boundaries of the districts.

(c) In addition to the election of six single-member district council members, there shall be one member, to be designated the president of the city council, who shall be elected at-large by all qualified electors voting thereon. Such member shall reside within the city limits of the city of Fairfield and shall continue to reside so long as he shall serve. The candidates for such position shall have resided within the city limits 90 days immediately preceding the date of the election. Only qualified electors residing within the city limits shall be eligible to vote for candidates seeking at-large membership on the council. Such at-large member shall be in addition to the mayor.

Section 3. All legislative powers and other powers granted to cities and towns, and such powers as are now vested in and/or exercised by the city council, shall be exercised by the council, except those powers conferred on some officers by law or ordinance. The council shall perform the duties required by this act and other applicable provisions of law.

Section 4. (a) The members of the council shall, on the first Monday in October after their election, assemble and elect a president pro tempore of the council and such other officers as may be provided for by law or ordinance.

(b) All elections of officers shall be by viva voce and a concurrence of a majority of the members to the council shall be required, and all members of the council may vote any provision of law to the contrary notwithstanding. On the vote resulting in an election or appointment, the name of each member and for whom he or she voted shall be recorded.

(c) The council shall prescribe by ordinance the powers to be exercised and the duties to be performed by the officers appointed or elected so far as such duties and powers are not prescribed by law.

(d) The council shall fix by ordinance the terms of service, not to exceed the term of the mayor, of all of the officers appointed or elected, when said terms are not prescribed by law.

Section 5. (a) In the event of a vacancy on the council, the council shall elect a successor for the remainder of the term from the district from which the original district member was elected. Such person shall be a qualified elector in the municipality and must meet all other legal qualifications required by law for the residency and performance of duties of the office to which elected.

(b) In the event of a vacancy in the office of president of the council, the president pro tempore of the council shall succeed to the presidency of the council for the remainder of the term. The council shall then elect, as soon as practicable, a successor to the president pro tempore and shall also elect to the council, a successor for the remainder of the term from the district from which the original president pro tempore of the council was elected. Such person so elected shall meet all the qualifications and requirements as provided by this act or required by law, in a manner not inconsistent with any provision of this act.

Section 6. The council shall judge the qualifications and election of the mayor, the president of the council and each council member and such other officers as may be elected by the people, and the resolutions and ordinances that may be adopted by the council under this section shall not be subject to the approval or disapproval of the mayor.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. All laws or parts of laws which conflict with this act are hereby repealed.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:23 P.M.

Act No. 91-700

H. 974 — Rep. Butler

AN ACT

Pertaining to Madison County; to amend Section 2 of Act No. 90-695, H. 789 of the 1990 Regular Session (Acts 1990, p. 1350), so as to further provide for the disbursement of court costs imposed by said act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 90-695, H. 789 of the 1990 Regular Session (Acts 1990, p. 1350), is hereby amended to read as follows:

“Section 2. Disbursement of funds derived from the sums collected pursuant to Section 1 of this act shall be subject to the approval of the Madison County Juvenile Court Advisory Board and shall be used to provide for the protection, treatment and care of those children under the jurisdiction of the court, including abused, neglected, or otherwise dependent children, delinquent children and children found by the court to be in need of supervision referred to in Section 1. The use of all or part of such funds to employ and train personnel whose responsibility it shall be to supervise, recruit and train unpaid volunteers appointed by the juvenile court of Madison County to investigate and report to the court on cases involving abused and neglected children is specifically authorized by this act. The use of all or part of such funds for the supervision of abused, neglected or otherwise dependent children, delinquent children and children found by the court to be in need of supervision is specifically authorized by this act.”

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:32 P.M.

Act No. 91-701

H. 980 — Rep. Zoghby

AN ACT

Relating to the City of Mobile, to amend Act No. 243, H. 278, First Special Session of 1964, which provides for the pension and relief system for policemen and fire fighters of the City of Mobile, so as to provide for increased contributions to such system; to further define the certain terms; to provide further for the appointment of

members to the pension board; to establish the pension rights of employees hired after the passage of this act; to provide for continued contributions; and to limit the time period during which a re-hired employee may buy back time from the system.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 3, 6, 9, 14 and 16 of Act No. 243, H. 278, First Special Session of 1964 (Acts 1964, p. 326), as amended, are hereby further amended to read as follows:

“Section 3. There shall be paid into such fund, out of the treasury of the City of Mobile, an amount equal to five per cent (5%) of the amount of all fines and moneys, except costs of court, paid as a result of prosecutions for violations of ordinances or laws of the City of Mobile, which sums shall be determined and credited to the Fund on a monthly basis. Eight per cent (8%) of the salary of every participant of the police and fire departments pension fund shall be deducted by the proper authority from the salaries of said participants of such Fund and shall be transferred to the Fund on a monthly basis with records kept showing the amount credited to each said participant, the increase in deductions to begin immediately following the enactment of this act; sixteen and one-half percent (16-1/2%) of the salary of the members of such departments shall be contributed by the City of Mobile and credited to such Fund monthly, the increase in contributions to begin immediately following the enactment of this act. The contributions by the participants and by the City of Mobile may be decreased pro rata at such rate as is determined by the actuary to be permissible once the unfunded liability of the Fund has been erased, and any such decreases in contributions shall begin on the first day of the fiscal year next following the actuary's report. The actuary's report for the preceding year shall be due not later than thirty (30) days before the end of the next succeeding fiscal year. That portion of the assessment that may be fixed by the governing body of the City and added as costs of court in connection with prosecutions for violations of the ordinances of the City of Mobile, shall be collected and credited monthly to the Fund; and the Fund shall be credited with any appropriations made by the City when at any time the Fund shall be insufficient to pay the benefits and defray the expenses as provided in this act. The City Council or other governing body of the City of Mobile may appropriate from any funds not otherwise appropriated an amount sufficient to cover such deficiency and may in subsequent budgets provide an amount to cover any anticipated deficits revealed by the actuary in the Fund.”

“Section 6. (a) Each insurance company writing fire insurance on property within the city limits of the city of Mobile and its police jurisdiction on or before the first day of March of each year, shall pay to the city of Mobile a sum equal to four percent (4%) of its gross amount of premiums, including all renewal premiums, less return

premiums, collected by such companies on policies in effect during the preceding year in such municipality and its police jurisdiction. One-half (1/2) of said sum shall be credited to said pension fund.

“(b) Each such insurance company shall on or before the due date of such payment file with the Finance Director of the city of Mobile, a statement or report in writing, showing the gross amount of premiums, including all renewal premiums, less returned premiums, received on such policies during the preceding year; which statement or report shall be sworn to by the agent of the insurance company in the city, or some other person having knowledge of the facts; and any such insurance company failing to make and file such report and statement as aforesaid, shall forfeit to the City of Mobile for use of the Policemen and Fire Fighters Pension and Relief Fund, the sum of one thousand dollars (\$1,000.00), to be recovered against such insurance company violating the provisions hereof, or its agents, by suit brought in the name of the city, and all such forfeitures and penalties shall be and become a part of the Policemen and Fire Fighters Pension and Relief Fund.

“Section 9. (a) The Policemen and Fire Fighters Pension and Relief Fund Board, hereinafter referred to as “the board,” is hereby created as the administrative authority for the management of the pension system. The board shall be comprised of nine members; three members to be elected from the police department, three members to be elected from the fire department, two members to be appointed from other areas by the City Council of Mobile or like governing body of the city of Mobile, and one member to be the finance director for the City of Mobile, or said finance director’s designated representative. The board seats held by the members of the police and fire departments shall be designated as Seats No. 1, No. 2 and No. 3, from each department and such seats shall be filled in a special election held for such purpose no later than sixty (60) days from the effective date of this act. The city clerk shall administer such election and shall circulate ballots to active members of the fire and police departments at the same time as such employees are distributed their salary warrants and in accordance with such other election rules as the city clerk deems necessary to administer such election in a fair and honest manner. The persons elected to Place No. 1 shall serve initial terms of one (1) year, persons elected to Place No. 2 shall serve initial terms of two (2) years, and the persons elected to Place No. 3 shall serve initial terms of (3) three years; thereafter, all elected members of such board shall serve for terms of three (3) years. Subsequent elections shall be held some time between six weeks and two weeks prior to the expiration date for the term of any seat on the board. The members appointed by the City of Mobile shall be reputable persons who are residents of the City of Mobile, over the age of twenty-one (21) years and who do

not hold any salaried office with the City of Mobile or County of Mobile. The board seats held by the members appointed by the City Council or like governing body of the City of Mobile shall be Seats No. 1 and No. 2. The person appointed to Place 1 shall serve an initial term of one (1) year and the person appointed to Place 2 shall serve an initial term of two (2) years, thereafter all members appointed by the City Council or like governing body shall serve terms of three (3) years. The person serving as finance director of the City of Mobile shall serve as long as he or she holds the position of finance director and shall have the power to designate his or her representative to the Board as long as he or she holds the position of finance director for the City of Mobile. No member of the board shall receive any compensation for serving on such board. Members may be reimbursed for expenses incurred on Pension Board business. Vacancies on such board among those elected from the police and fire departments shall be filled by special election for such purpose to be called by the city clerk no later than thirty (30) days after a seat is deemed to be vacant by the board. Vacancies among those members appointed by the City Council of the City of Mobile or like governing body of the City shall be filled by appointment as soon as practicable after such vacancy occurs.

“(b) The board shall hold an organizational meeting no later than ten (10) days after all seats are filled and shall select a Chairman and Vice-Chairman and shall meet not less than once each month, and at such other times as may be considered necessary upon call of the Chairman. Five (5) members of the board shall constitute a quorum for transaction of business.

“(c) The board shall adopt and may amend from time to time rules and regulations as shall be necessary for the orderly dispatch of its business.

“(d) Separate and adequate records shall be kept by the board of all its meetings and proceedings, which records shall be public and shall be subject to inspection on order of the governing body of the City of Mobile at any time.

“(e) The City Council or like governing body of the City of Mobile shall appoint, subject to the merit system of the City, and pay from the General Fund of the City the salary of an Executive Secretary of the **Policemen and Fire Fighters Pension and Relief Fund Board**, who shall be responsible for records required by this act and shall perform such duties as may be prescribed by the board.

“(f) The board as a group or the individual members thereof and the executive secretary employed by the board shall provide bond in such overall amount or such individual amounts as the board in its sole discretion shall deem adequate, but which in the aggregate shall total no less than \$150,000.00, conditioned upon faithful

performance of its or their duties; the premium of such bonds or bond to be paid by the City of Mobile from the general fund.

“(g) All applications for pensions and relief under this act shall be heard and determined by the board.

“(h) Every member of the board shall have one (1) vote on all matters coming before the board except those matters concerning service-connected disability in which said cases concerning service-connected disability applications the members of the board appointed by the City Council or like governing body of the City of Mobile and the finance director of the City of Mobile or his or her designated representative shall have two (2) votes.

“Section 14. (a) Any member of such pension system who has been in service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty (50) years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, a sum equal to two and one-half percent (2-1/2%) of his final average salary, which shall be the same as the average of any salaries received by the member for the last three (3) full years in active service multiplied by the number of years of service of said retiree. Provided, however, the maximum pension shall not exceed seventy-five percent (75%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of the average monthly compensation or salary received by such member as salary in such fire or police department during the final three (3) years of service. Provided, however, that said payments to said retired member of the police or fire department shall not commence or be effective earlier than the fiftieth (50th) birthday of the member.

“(b) Any person who is employed by either the police or the fire department of the City of Mobile subsequent to the passage of this act, and who remains in such service for twenty (20) years or more, the last ten (10) years of which being consecutive service, and has reached the age of fifty-five (55) years, upon making written application to the board, shall, without medical examination or disability, be retired from service; and upon such retirement, the board shall direct the payment to such member, monthly from the pension fund, of a sum equal to two and one-half percent (2-1/2%) of his final average salary, for the first twenty (20) years of service, and a sum equal to two and one-quarter percent (2-1/4%) of his final average salary (which shall be the same as the average of any salaries received by the member for the last five (5) full years in active service) multiplied by the number of years of service of said retiree over and above twenty (20) years of service. Provided, however, the

maximum pension shall not exceed seventy-two and one-half percent (72-1/2%) of the member's final average salary; said retiree shall receive a minimum of fifty percent (50%) of his final average monthly compensation or salary received by such member. Provided, however, that said payments to said retired member of the police and fire departments shall not commence or be effective earlier than the fifty-fifth (55th) birthday of the member.

"(c) Members of the fund at the time of the passage of this act who continue in service beyond thirty (30) full years, shall continue after thirty (30) years of service to make contributions to the Fund, if, at the time of the passage of this act such members have not yet attained thirty (30) years of service, regardless of their initial date of employment."

"Section 16. (a) In the case of the death of a person eligible for retirement, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person has retired immediately prior to his death and elected Option 2, as set forth in Section 28.

"(b) In the case of the death of a person not eligible for retirement, after completion of twenty (20) years of creditable service, an allowance shall be paid to the surviving spouse in an amount that would have been payable if the person had retired for disability immediately prior to his death and had elected Option 2 as set forth in Section 28 or if the surviving spouse desires, he or she may choose to receive the accumulated contributions of the person in lieu of the allowance provided under Option 2 plus an amount equal to the accumulated contributions of the person not to exceed five thousand dollars (\$5,000.00).

"(c) Upon the death of a person on account of whom no survivor allowance is payable under Subdivision (1) or (2) of this Section, the accumulated contributions of the person plus an amount equal to the accumulated contributions, not to exceed five thousand dollars (\$5,000.00) shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the Board of Pensions.

"(1) The provisions of Section 16 (a), (b) and (c) are not retroactive and shall not affect the pension now being received by the widow or surviving children of any member of the police or fire department who died prior to the effective date of this act.

"(d) Whenever the employment of a member of the police or fire departments of the City of Mobile shall be terminated for any reason, except death, before eligibility for pension benefits hereunder has been established, the contribution of such employee shall be refunded in a lump sum without interest to the employee. Prior service of an

employee re-hired after termination and refund as herein provided shall not count toward future retirement unless said employee, within twelve (12) months from the date of his re-employment, pays into the Fund the amount of such refund plus interest at the rate of ten percent (10%) per annum from the date of said refund, in which event said employee shall be given credit for such prior service.

“(e) Whenever a retired or disabled member who retired between January 1, 1963, and October 1, 1964, shall die who is receiving pension or disabled payments and when such retired or disabled employee leaves a widow, such widow shall receive one hundred dollars (\$100.00) per month. The widow may receive such payments for the term of her life or until her remarriage.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 6:06 P.M.

Act No. 91-702

H. 988 — Rep. Freeman

AN ACT

Relating to Madison County; prescribing the salaries of the chairman and the members of the Madison County Commission and abolishing annual expense allowances.

Be It Enacted by the Legislature of Alabama:

Section 1. Effective on the first day of the next term of office, the chairman of the Madison County Commission shall receive an annual salary of \$55,000.00 and on said date, the annual expense allowance now received by the chairman of the Madison County Commission shall be abolished.

Section 2. Effective on the first day of the next term of office, the members of the Madison County Commission, other than the chairman, shall receive an annual salary of \$39,500.00 and on said date, the annual expense allowance now received by the said members of the Madison County Commission shall be abolished.

Section 3. The salaries prescribed herein shall be paid in equal biweekly installments from the county general fund on warrants processed in the usual manner and shall be in lieu of any

other annual salaries, salary supplements, and expense allowances heretofore provided by law for the chairman and members of the Madison County Commission.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act, specifically including but not limited to those provisions of Act No. 84-821 of the First Special Session of the 1984 Alabama Legislature relating to the salaries and expense allowances of the chairman and members of the Madison County Commission, are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:31 P.M.

Act No. 91-703

H. 1000 — Rep. Box

AN ACT

Relating to Mobile County; requiring that the Board of School Commissioners shall publish a monthly financial report for the school system; requiring certain information be included in the report; providing for publication of the report; and providing further for the school budgets.

Be It Enacted by the Legislature of Alabama:

Section 1. Beginning January 15, 1992, and on the fifteenth of each month thereafter, the Board of School Commissioners for Mobile County shall publish a summary financial report for the immediately preceding month. The financial report shall be in a form which can be easily read and understood by the general public.

Section 2. The financial report shall include, but not be limited to, the following information: total receipts and expenses by major account codes of the school system; itemized list by source of all receipts; total salaries of all full-time classroom teachers; total number of all full-time classroom teachers; total salaries of all employees working at the school system's central office; total number of employees working at the school system's central office; total salaries of all supervisory personnel working at the school system's central office; total number of all supervisory personnel working at the school system's central office; and any other information, the inclusion of which the Board of School Commissioners determines would be beneficial to the general public. All dollar amounts shall be

listed for the current month, the corresponding month of the previous year, the fiscal year to date, and the corresponding fiscal year to date of the previous year. All numbers of employees shall be for the current month and the corresponding month of the previous year.

Section 3. Publication shall be done in the following manner: on the fifteenth day of each month, a copy of the financial report shall be mailed to the office of the Mobile County Commission and to the city hall of each municipality in the county for posting in a public place. Copies of the financial report shall be available for pick up by the general public at the offices of the Board of School Commissioners for Mobile County during all hours that said offices are open for business.

Section 4. On October 1, 1992, and on October 1 of each year thereafter, the Board of School Commissioners shall submit a school-by-school budget which is to be made available to each school for public review. A copy of each budget shall be available for public review at the central office.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:35 P.M.

Act No. 91-704

H. 1024 — Reps. Butler, Freeman

AN ACT

Relating to Madison County; providing for a county supplement for court reporters in the Twenty-third Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Each of the court reporters of the Twenty-third Judicial Circuit in Madison County, Alabama, is hereby entitled to receive a county supplement in an amount equal to forty-two percent (42%) of his or her annual salary as paid by the state effective October 15, 1991. When applicable, said supplement shall be adjusted on October 15 of each year thereafter to reflect forty-two percent (42%) of the salary as paid by the state at that time. Such county supplement shall be the total amount paid to court reporters by the county. Such supplement shall be paid in equal bi-weekly installments from the county treasury, and shall be in addition to any and all other compensation provided by law.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:36 P.M.

Act No. 91-705

H. 1082 — Rep. Holley

AN ACT

Relating to Coffee County; providing for a special recording fee for each document filed for record in the office of the Probate Judge and to provide for the distribution of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Upon the date of the adoption of a resolution of the Coffee County Commission declaring the implementation of the provisions of this act, a Special Recording Fee of \$4.00 shall be collected by the Judge of Probate of Coffee County, with respect to each real property instrument, each personal property instrument, and other instruments and documents in the Probate Office in the discretion of the Probate Judge. On and after such date no such instrument shall be received for record in the office of said Judge of Probate unless the said special recording fee of \$4.00 is paid thereon. The special recording fee of \$4.00 as provided shall by the twentieth (20th) of the month following its collection, be deposited by the Probate Judge into the treasury of Coffee County and kept in a special fund to the credit of the Judge of Probate, to be budgeted by the Coffee County Commission. Such special fund shall be expended for an improved recording and indexing system, the purchase or improvement of other equipment and for the general operation of the Probate Office. Said fee may be adjusted from time to time by the Coffee County Commission.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:37 P.M.

Act No. 91-706

H. 1083 — Rep. Holley

AN ACT

Relating to Coffee County; providing that the Coffee County Commission shall meet at the New Brockton Farm Complex.

Be It Enacted by the Legislature of Alabama:

Section 1. Thirty days or more after the passage of this act, all regular, special and called meetings of the Coffee County Commission shall be held exclusively at the New Brockton Farm Complex located on U. S. Highway 84 in New Brockton, Alabama.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:39 P.M.

Act No. 91-707

H. 282 — Rep. Harper

AN ACT

This bill amends Section 2-5-14, Code of Alabama, 1975, to further define the disposition of funds.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2-5-14, Code of Alabama, 1975, is hereby amended to read as follows:

§2-5-14.

“All funds collected under the provisions of this chapter shall be deposited in the state treasury to the credit of a special fund for the use of the farmers’ market authority and shall be used solely for maintenance, repairs and capital outlay for markets and market facilities, for payment of other expenses of operations as approved by the authority and for liquidation of costs of construction of such markets and facilities. The farmers’ market authority, upon approval by a majority of the members of the authority, may also authorize grants for the benefit of agriculture economics to markets and other agricultural oriented facilities in the state of Alabama not constructed or owned by the farmers’ market authority for repair and maintenance of such facilities. Such funds shall be paid out on warrants

drawn by the state comptroller on the state treasury, upon the authorization of the administrator of the farmers' market authority.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This Act shall become effective immediately upon its passage and approval of the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 6:05 P.M.

Act No. 91-708

H. 895 — Rep. Box

AN ACT

To alter, rearrange and add to the limits of the City of Chickasaw in Mobile County, Alabama, and to alter and rearrange the limits of the City of Mobile in Mobile County, Alabama, by removing certain area from the limits of the City of Mobile and adding same to the limits to the City of Chickasaw, to describe the area so removed from the City of Mobile; so added to the City of Chickasaw and to provide for approval by affected property owners and to provide that this act shall not become effective if rejected by either city council no later than ninety days from the date of its passage and approval by the Governor, or its otherwise becoming a law.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundaries of the City of Chickasaw in Mobile County, Alabama, are altered, rearranged and extended to include within the corporate limits of said city the parcel of land hereinafter described, and the boundaries of the City of Mobile in Mobile County, Alabama, are altered and rearranged to exclude from the corporate limits of said city the said parcel described as follows:

Beginning at the point of Intersection of the east existing City Limits of the City of Chickasaw with the south right-of-way line of Viaduct Street, which point is on the north line of Section 27, Township 3 South, Range 1 West, in Mobile County, Alabama; thence run North along the east existing City Limits of the City of Chickasaw a distance of 2,650 feet more or less to a point; thence run West along the north existing City Limits of the City of Chickasaw a distance of 750 feet more or less to a point that is 448 feet easterly of and perpendicular to the east right-of-way of Southern Railroad; thence Northerly and parallel to the east right-of-way of Southern Railroad a distance of 210 feet more or less to a point on the

Southeast corner of O'Neal Steel, Inc., property; thence North 14 degrees 21 minutes East along the east property line of O'Neal Steel, Inc., a distance of 235 feet to a point; thence Easterly along said property line a distance of 100 feet to a point; thence North 14 degrees 21 minutes East along said property line a distance of 1,013.12 feet to a point; thence Westerly along said property line a distance of 100 feet to a point on the Southeast property corner of T. Lee Robinson; thence north 27 degrees 36 minutes East along the east property line of T. Lee Robinson a distance of 430 feet to a point, said point being 100 feet south of centerline of a railroad spur track; thence run in an Easterly direction, 100 feet south of and parallel with the centerline of said spur track a distance of 1,516.50 feet to a point at the Southeast property corner of Chickasabogue Lumber Company; thence Northerly along the east property line and northerly extension thereof of Chickasabogue Lumber Company a distance of 350 feet more or less to the centerline of Chickasaw Creek; thence Easterly and Southerly along the centerline of Chickasaw Creek and its meanderings, a distance of 13,200 feet more or less to a point that is on an easterly extension of the south property line of Warrior and Gulf Navigation Company in Section 26, Township 3 South, Range 1 West; thence Westerly along the south property line of Warrior and Gulf Navigation Company a distance of 1,600 feet to a point; thence turn a 90 degree 00 minute angle to the right and run North along the west property line of Warrior and Gulf Navigation Company a distance of 1,362.28 feet to a point; thence Northeasterly along said property line a distance of 650 feet more or less to a point; thence East along said property line a distance of 180 feet more or less to a point; thence North 180 feet more or less to a point; thence West a distance of 300 feet more or less to a point; thence North a distance of 670 feet more or less to a point on the south side of Viaduct Road; thence Northwesterly and Westerly along the south side of Viaduct Road a distance of 6,480 feet more or less to Point of Beginning.

Section 2. The de-annexation/annexation provided for by this act shall not take effect until property owners representing the cumulative ownership of at least ninety percent (90%) of the total acreage described in Section 1 file their written consent with the Judge of Probate from Mobile County.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. This act shall not become effective if either the city council of Mobile or Chickasaw rejects this act by majority vote no later than ninety days next following the date of its

passage and approval by the Governor or its otherwise becoming a law.

Approved August 8, 1991

Time: 5:25 P.M.

Act No. 91-709

H. 101 — Rep. Campbell

AN ACT

To amend Section 29-1-18 of the Code of Alabama 1975, for the quadrennium ending January, 1995 only, which limits the number of members of a standing committee of the house of representatives to 15.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 29-1-18 of the Code of Alabama 1975 is hereby amended to read for the quadrennium ending January, 1995 only:

No standing committee of the house of representatives, except a committee on local legislation, shall be composed of more than 17 members.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved August 8, 1991

Time: 5:07 P.M.

Act No. 91-710

H. 312 — Rep. Holladay

AN ACT

Relating to St. Clair County; to provide for the operation of bingo games for prizes or money only by qualified organizations for bona fide charitable, educational or other lawful purposes; to provide for permits or licenses, applications, forms and contents to operate bingo; to provide for special permits or licenses; to prohibit certain activities and impose special requirements; to provide for fees and expenses; to provide for the disposition of proceeds; to provide for the operation of bingo; to provide for the keeping of records and their inspection; to provide for the issuance and revocation of permits or licenses; to provide for supervision by the circuit court; to provide for certain powers and duties of the sheriff; to provide for penalties and forfeitures; and to provide that this act shall become effective upon the adoption of an amendment to the Constitution of Alabama of 1901 authorizing bingo in St. Clair County.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the “St. Clair County Bingo Act.”

Section 2. The following words and phrases used in this act shall have the following respective meanings unless the context clearly indicates otherwise:

(1) “Bingo” means that game commonly known as bingo where numbers or symbols on a card are matched with numbers or symbols selected at random.

(2) “Qualified organization” means a bona fide religious, service organization, or veterans organization which operates without profit to its members and which either has been in existence continuously as such an organization for a period of 24 months or is exempt from taxation by virtue of having been classified as a tax exempt nonprofit organization by the Internal Revenue Service, United States Government.

(3) “Person” means any human being, corporation, association, or other legal entity.

(4) “Permit holder” means a qualified organization which has been issued a permit or license pursuant to this act.

(5) “Location” means a single building, hall, enclosure, or outdoor area used for the purpose of playing bingo pursuant to a permit or license issued under this act.

(6) “Bingo session” means a consecutive period of time not to exceed five consecutive hours during which bingo is played in a given day and not to exceed three such days in a given week, except for special permit holders.

Section 3. The operation of bingo games for prizes or money by qualified organizations for bona fide charitable, educational or other lawful purposes shall be legal in St. Clair County, subject to the provisions of this act.

Section 4. (a) No qualified organization shall be permitted to operate a bingo game unless the sheriff first issues a permit to the organization authorizing it to do so. The permit described in this act is in addition to, and not in lieu of, any other business licenses which may be required by law, and no bingo game shall be operated until such time as all required licenses have been obtained. A permit holder may hold only one permit and that permit is valid for only one location. A permit is not assignable or transferable.

(b) Any qualified organization desiring to obtain a permit to operate bingo games in a calendar year shall make application to the sheriff on forms prescribed by the sheriff and shall pay an annual fee of \$50.00. Renewal application shall also be filed with

the sheriff. The sheriff shall refuse to grant a bingo permit to any applicant who fails to fully provide the information required by this subsection. Each applicant for a permit shall evidence its prior existence for at least 24 months and provide the following information:

(1) The name and home address of the applicant, and if the applicant is a corporation, association or other similar legal entity, the names and home addresses of each of the officers of the organization, as well as the names and addresses of the directors, or other persons similarly situated, of the organization.

(2) The names and home addresses of each of the persons who will be operating or promoting the bingo game.

(3) The names and home addresses of any persons, organizations or other legal entities that will act as surety for the applicant.

(4) The location at which the applicant will conduct the bingo games.

(5) A statement showing the convictions, if any, for criminal offenses, other than minor traffic offenses, of each of the persons listed in subdivisions (1), (2) and (3) above.

(c) Permits may be amended upon resubmission of application, surrender of permit, and payment of a \$10.00 fee.

Section 5. (a) A qualified organization which does not hold a permit pursuant to Section 4 of this act may apply for a special permit for conducting a bingo session at a designated location for a special occasion. Such an applicant shall submit to the sheriff a written application prepared in accordance with and on a form prescribed by rule of the sheriff. The application shall include the information required by subsection (b) of Section 4 of this act, except that the applicant shall indicate the day or days on which the applicant will conduct the bingo session for the special occasion. Upon a determination by the sheriff that the applicant is a qualified organization and is not ineligible pursuant to Section 14 of this act and upon the applicant's payment of the required fee under this subsection to the sheriff's department, the sheriff may issue a special permit. The special permit fee shall be \$10.00 per day.

(b) A special permit shall contain the name and address of the permit holder and shall specify the location and the day on which the permit holder may conduct the bingo session.

(c) Up to six special permits for one day each, not to exceed 10 hours, may be issued per qualified organization per year. Such days may be consecutive.

(d) Special permits are not transferable or assignable.

Section 6. (a) Each bingo permit shall contain the name and address of the permit holder, the location at which the permit holder is permitted to conduct bingo, and the day(s) of the week on which the permit holder is permitted to conduct bingo.

(b) The permit holder shall display the permit conspicuously at the location where bingo is being conducted at all times during the conduct of the games.

Section 7. (a) It is the intention of the legislature that only qualified organizations which are properly issued permits or licenses, pursuant to this act, shall be allowed to operate bingo games. A qualified organization shall not lend its name or allow its identity to be used by any other persons in operating or promoting a bingo game in which said other person is substantially financially interested.

(b) All bingo cards shall be clearly marked with the name of the organizations to pyramid the valuation of prizes in such a manner as to exceed the limits in cash or gifts of equivalent value as provided in Section 10 of this act. The term "equivalent value" shall mean the fair market value of the gift on the date the gift is given as the prize in a bingo game.

(c) Any qualified organization may deduct the reasonable expenses of operating and conducting its bingo games as permitted herein. Reasonable expenses shall be defined as including customary and usual business overhead expenses.

(d) No person shall pay consulting fees to any person for any services performed in relation to the operation or conduct of a bingo game.

Section 8. All fees collected by the sheriff under this act shall be paid into the county general fund, and all necessary expenses incurred by the sheriff in the administration and enforcement of this act shall be financed from the county general fund.

Section 9. The net proceeds of a bingo game shall be devoted to the charitable, educational, and other lawful purposes of the permit holder; provided, however, all reasonable expenses incurred or paid in connection with the holding, operating, or conducting of bingo, including the following bona fide expenses, in reasonable amounts, shall be allowed:

(1) The purchase or rental of equipment necessary for conducting bingo and payment of services reasonably necessary for the repair of equipment.

(2) Payment of cash prizes or the purchase of prizes of merchandise.

(3) Reasonable rental or mortgage payment on the location at which bingo is conducted.

(4) Utilities.

(5) Janitorial services.

(6) The fee required for issuance or reissuance of a permit to conduct bingo.

(7) Other reasonable expenses incurred by the permit holder, not inconsistent with this act.

Section 10. (a) Bingo may not be conducted with any equipment which is not owned, being purchased, or being rented at a reasonable rate by the permit holder, except as otherwise provided in Section 7(b) of this act.

(b) Prizes given by any organization for the playing of bingo games shall not exceed \$5,000.00 in cash or gifts of equivalent value during any bingo session, and shall not exceed \$15,000.00 for any calendar week.

(c) A permit holder may not advertise bingo except to the extent and in the manner authorized by rule of the sheriff. If the sheriff allows a permit holder to advertise bingo, the permit holder shall indicate in the advertisement the purposes for which the net proceeds will be used by the permit holder.

(d) A permit holder shall display its bingo games only at a single location specified in the permit holder's application.

(e) A permit holder shall display its bingo license conspicuously at the location where the bingo game is being conducted.

(f) Unless accompanied by a parent or guardian, no person under the age of 19 years shall be permitted to play any game or games of bingo conducted pursuant to any permit issued under this act. No person under the age of 19 years shall be permitted to conduct or assist in the conduct of any game of bingo conducted pursuant to any permit issued under this act.

Section 11. Each permit holder shall maintain the following records pertaining to each bingo session for at least one year from the date of the session:

(1) An itemized list of gross receipts for each session.

(2) An itemized list of all expenses, including the name of each person to whom the expenses are paid and a receipt or invoice for all of said expenses.

Section 12. (a) After the provisions of this act have been in effect for one year, on or before April 15 and on or before April 15 of each calendar year thereafter, each permit holder shall file with

the sheriff a copy of the records required in Section 11 of this act relating to the operation of bingo sessions in the previous calendar year. Said records shall be open to inspection by any law enforcement agency.

(b) The records required to be kept in Section 11 of this act of the permit holder for the preceding one year shall be open to inspection by the sheriff, any law enforcement agency, or their authorized representatives during reasonable business hours.

(c) The locations at which bingo is being conducted or at which an applicant or permit holder intends to conduct bingo shall be open to inspection during regular business hours by the sheriff or any law enforcement agency.

Section 13. For good cause shown, the sheriff may revoke any permit issued pursuant to this act if the permit holder or any officer, director, agent, member or employee of the permit holder violates this act or rule promulgated hereunder. The revocation by the sheriff shall become effective 10 days after proper notice by the sheriff to the permit holder, unless within said 10-day period, the permit holder makes a written request for a hearing to the county commission or governing body. All existing rules and procedures for meetings and hearings before the county commission shall apply herein unless in direct conflict with any of the provisions hereof. Following a full hearing and the rendering of a written decision adverse to the permit holder by the county commission shall result in the revocation of the subject permit unless an appeal is taken within 30 days.

Section 14. (a) A permit holder whose permit is revoked in consequence of a violation of this act or a rule promulgated under this act is ineligible to apply for a permit for a period of one year after the revocation.

(b) A person convicted of an offense under Section 16 of this act or any other gambling offense is ineligible to serve as an officer or a permit holder or to participate in conducting bingo for a period of one year after the conviction becomes final. If the person is licensed pursuant to this act, the person shall forfeit the permit and is ineligible to apply for the issuance or reissuance of the permit for a period of one year thereafter.

(c) If the permit is revoked, in addition to other penalties which may be imposed, the sheriff may declare the violator ineligible to conduct a bingo game or apply for a permit under this act for a period not exceeding one year.

(d) The permit holder shall return its permit to the sheriff on or before the effective date of a revocation or forfeiture. Whether

returned or not, the permit shall not be valid beyond the effective date of the revocation or forfeiture.

Section 15. The circuit court of this county shall have jurisdiction to restrain or enjoin violations of this act and shall afford trial by jury for all appeals directed to it for alleged violations of this act leading to revocations of existing permits.

Section 16. Any person who violates the provisions of this act shall be guilty of a Class C misdemeanor upon first conviction hereunder. Any subsequent conviction hereunder shall be a Class A misdemeanor. Any person who is convicted pursuant to this section shall be punished as provided by law.

Section 17. Any device, equipment, record, money, or stakes used in any bingo game or operation in violation of the provisions of this act, may be contraband and may be seized and is forfeited. Property forfeited may be sold, destroyed, or retained for official use by the state or county law enforcement agencies as the circuit court directs, following a full due process hearing.

Section 18. Any other law providing a penalty or disability upon a person who conducts or participates in bingo games, who possesses equipment used in conducting bingo, who permits bingo to be conducted on his premises, or who does other acts in connection with bingo, shall not apply to such conduct when done pursuant to this act or rules promulgated under this act.

Section 19. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 20. All laws or parts of laws which conflict with this act are hereby repealed.

Section 21. This act shall become effective upon the adoption of an amendment to the Constitution of Alabama of 1901 authorizing bingo in St. Clair County.

Approved August 8, 1991

Time: 4:52 P.M.

take corneal tissue during the course of autopsy proceedings, so as to provide further for such authorization.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 87-524, H. 513, 1987 Regular Session, is hereby amended to read as follows:

“Section 1. Pursuant to rules and regulations recommended by the Jefferson County medical examiner and adopted by the Coroner-Medical Examiner Commission, the coroner-medical examiner and any associate coroner-medical examiner shall be authorized to take corneal tissue on behalf of any eye bank located in Jefferson County which makes such corneal tissue for transplants available to all medical facilities in Jefferson County authorized to perform such transplants, when such tissue would otherwise be destroyed during the course of the examination. There shall be no charge to the patient recipient for the corneal tissue provided by the eye bank.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:34 P.M.

Act No. 91-712

H. 253 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Alabama Travel Council for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Alabama Travel Council from the State General Fund the sum of Fifty thousand dollars (\$50,000).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:44 P.M.

Act No. 91-713

H. 232 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Exploreum Museum of Discovery for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Exploreum Museum of Discovery for the fiscal year ending September 30, 1992, the sum of nineteen thousand two hundred fifty-six dollars (\$19,256), out of the funds in the Alabama Special Educational Trust Fund.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:07 P.M.

Act No. 91-714

H. 272 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama YMCA Youth and Government and the Cleveland Avenue YMCA for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1992, the sum of fourteen thousand four hundred forty-two dollars (\$14,442) out of the funds in the

Alabama Special Educational Trust Fund, to the Alabama YMCA Youth and Government for use in their legislative and judicial programs. In addition, there is also hereby appropriated the sum of eight thousand six hundred sixty-five dollars (\$8,665) out of the funds in the Alabama Special Educational Trust Fund, to the Cleveland Avenue YMCA for the fiscal year ending September 30, 1992.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:49 P.M.

Act No. 91-715

H. 241 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Humanities Foundation for the fiscal year ending September 30, 1992 and to require an audited financial statement and operations plan prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1992 the sum of twenty-four thousand seventy dollars (\$24,070) out of the funds in the Alabama Special Educational Trust Fund to the Alabama Humanities Foundation.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:43 P.M.

Act No. 91-716

H. 463 — Reps. Bugg, Smith (R)

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Bevill Center for Advanced Manufacturing Technology in Gadsden, Alabama and to the Bevill Advanced Electronics Center at Sparks Technical College, for the fiscal year 1991-92 and to require an operations plan and/or an audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Bevill Center for Advanced Manufacturing Technology in Gadsden, Alabama, for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of three hundred thousand dollars (\$300,000). In addition there is also hereby appropriated for fiscal year 1991-92 to the Bevill Advanced Electronics Center at Sparks Technical College the sum of three hundred thousand dollars (\$300,000) from the Alabama Special Educational Trust Fund for the support and maintenance of said program.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and/or an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:58 P.M.

Act No. 91-717

H. 238 — Rep. Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust fund to the Kate Duncan Smith DAR School for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Kate Duncan Smith DAR School for the fiscal year ending September 30, 1992, the sum of Twenty-four thousand seventy dollars (\$24,070), out of the funds in the Alabama Special Educational Trust Fund.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 5:15 P.M.

Act No. 91-718

H. 439 — Reps. Freeman, Harper

AN ACT

To make an appropriation from the Alabama Special Educational Trust Fund to the Constitution Hall Village at Huntsville for the fiscal year 1991-92 and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year 1991-92, there is hereby appropriated to the Constitution Hall Village at Huntsville, for the support and maintenance of said program from the Alabama Special Educational Trust Fund, the sum of ninety-six thousand two hundred eighty dollars (\$96,280).

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:53 P.M.

Act No. 91-719

H. 1096 — Reps. Penry, McMillan

AN ACT

Relating to Baldwin County; providing for a planning and zoning commission for the unincorporated areas of Baldwin County; providing for the organization,

membership, functions, authority and jurisdiction of such commission; providing for planning and zoning authority and jurisdiction for the Baldwin County Commission; providing for planning and zoning districts in the county; providing for the membership and qualifications of the members of boards of adjustment for such districts; providing for the organization, functions, authority and jurisdictions of such boards of adjustment; providing for the formulation and implementation of development plans for such districts; providing for assessment of a certain development privilege fee on properties within such districts and providing how funds derived from such fees may be expended; providing for fees for the administration of ordinances and regulations; providing procedures for adoption and approval of a comprehensive land use development plan for the county; providing for the appeal of decisions of the boards of adjustment; providing for the adoption of planning and zoning regulations by the Baldwin County Commission; providing for amendments to the master plan, ordinances and regulations; providing for conflicts in authority and providing for remedies to aid in the enforcement of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Creation of County Planning and Zoning Commission. There is hereby created a planning and zoning commission for Baldwin County, Alabama, which commission shall be appointed as herein provided and shall have responsibilities and duties as stated herein. Such commission shall be known as the Baldwin County Planning and Zoning Commission hereinafter referred to as the "Planning Commission." The Planning Commission shall adopt bylaws to administer the provisions of this act.

Section 2. Appointment of Members and Personnel of the Baldwin County Planning and Zoning Commission. Commencing on the effective date of this act, the Planning Commission shall be composed of those persons serving as members and officers of the Planning Commission of Baldwin County on the effective date of this act. Their terms on the Planning Commission shall run concurrently with their existing terms on the county Planning Commission. A minimum of eight (8) members of the Planning Commission shall be qualified electors from the unincorporated areas of Baldwin County. Upon the affirmative vote of a majority of the qualified electors in a district election held pursuant to Section 8 of this act, the membership of the Planning Commission shall be increased by appointment by the county commission of a qualified elector from that district for a term of three years. In the event of any vacancy on the Planning Commission, such vacancy shall be filled by appointment of the Baldwin County Commission. The Baldwin County Commission may remove any member for cause upon written charges and after a public hearing. All members shall serve without compensation, and no member, except a county commissioner, shall hold a county office; however, reasonable and necessary expenses of the members of the Planning Commission shall be paid from the general fund of Baldwin County.

Section 3. Jurisdiction of the Planning Commission. The jurisdiction of the Planning Commission for zoning by district pursuant to Section 8 of this act shall apply to all unincorporated areas of Baldwin County. The jurisdiction of the Planning Commission for planning purposes shall apply to all areas of Baldwin County outside the planning jurisdictions of municipalities. The Planning Commission shall not have jurisdiction over removal of natural resources growing on, placed on or naturally existing on or under private lands or properties. In any district which has adopted a zoning ordinance, undeveloped land or land zoned or used for agricultural purposes or timber growing shall automatically be rezoned for single family use upon such request by the owner. Provided further, that any owner of record of real property upon the date of the adoption by the Baldwin County Commission of the zoning ordinance for the district in which said property is located shall automatically obtain a variance, if needed, for a single family dwelling notwithstanding the type of dwelling to be placed or constructed on said property. The Baldwin County Commission is authorized to enter into agreements with municipalities for planning purposes with the extraterritorial planning jurisdiction of such municipalities.

Section 4. Preparation of Master Plan. In availing itself of the powers conferred by this act, the Baldwin County Commission shall appoint the Planning Commission to make and maintain in an up-to-date manner, a master plan of appropriate zoning measures and physical developments of the unincorporated areas of Baldwin County. Such plan with the accompanying maps, plats, charts and descriptive material shall show the Planning Commission's recommendations for the use and development of any areas under the planning and zoning jurisdiction of the Baldwin County Commission for the purposes of this act. The Planning Commission shall make a preliminary report and hold a public hearing thereon. The master plan recommended thereunder shall be presented in a final report to the Baldwin County Commission. The Baldwin County Commission shall not hold a public hearing and take action until it has received the final report of the Planning Commission. After a public hearing by the Baldwin County Commission, the master plan may be approved or amended by the Baldwin County Commission, or remanded to the Planning Commission for further revision. The master plan shall not be effective until adopted by the Baldwin County Commission.

Section 5. Procedure for Adoption of Ordinances and Regulations. Any proposed ordinance or regulation passed by the Baldwin County Commission under authority of this act shall be published in full for three (3) consecutive weeks in a newspaper of general circulation within the county, together with a notice

stating the time and place the ordinance or regulation is to be considered by the Baldwin County Commission and stating further that at such time and place all persons who desire shall have an opportunity to be heard in opposition to or in favor of such ordinance or regulation. Said hearing shall be held in the district where the proposed ordinance or regulation is to be implemented. No such regulation or ordinance shall become effective until adopted by the Baldwin County Commission after a public hearing thereon, at which parties in interest and citizens shall have an opportunity to be heard.

Section 6. Districts and Authority. The Baldwin County Commission shall divide the unincorporated areas of Baldwin County into districts and provide for zoning classifications within a district with respect to the kind, character and use of structures and improvements that may be erected or made within such districts. Prior to submission of a written petition to hold an election pursuant to Section 8 of this act, such districts may be altered as necessary by the Baldwin County Commission to effect the provisions of this act. In establishing the boundaries of such districts, the Baldwin County Commission may consider, but not be limited to, the natural geography of the county, identifiable landmarks, both natural and manmade, current land use patterns, areas of historical significance, natural resources, convenience of holding elections within a district, administrative convenience, projected land use, population density, population growth and common community interests. The Baldwin County Commission is further authorized to adopt such ordinances and regulations as necessary to effect the provisions of this act. Such ordinances and regulations shall be made in accordance with a master plan and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and general welfare, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such ordinances and regulations should be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with the view of conserving the value of buildings and encouraging the most appropriate use of land throughout such district. For the purpose of promoting the health, safety, morals and general welfare of the community, the county commission is hereby empowered to regulate and restrict the height, number of stories and size of buildings or structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residences or other purposes.

Section 7. Purposes in View. In preparation of the proposed master plan and planning and zoning ordinances and regulations, the Planning Commission shall make careful and comprehensive studies and surveys of the present conditions existing within unincorporated areas with due regard to existing agricultural uses, to land by virtue of its availability, proximity to water supplies, and other geographical features as particularly suited to agricultural uses, to neighboring municipalities, towns and villages, to growth of subdivisions, to the general population, to growth of the resort areas in the county, and make adequate provisions for traffic, recreational areas and industries and other public requirements. The comprehensive plan, development and zoning ordinances and regulations shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the county which will in accordance with present and future needs best promote the health, environment, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, and shall promote safety from fire, flood and other dangers and the healthful and convenient distribution of population, and the wise and efficient expenditure of public funds. The plan, regulations and ordinances shall be public record but their purpose and effect shall be to aid the Baldwin County Commission in the performance of its duties hereunder, and assisting and cooperating with other federal, state and local agencies so as to achieve coordinated, adjusted and harmonious development. The Baldwin County Commission shall have the authority to contract or appoint planners, engineers, architects or other consultants to assist the Planning Commission in developing the master plan, ordinances and regulations. Such consultants shall be paid by the county commission for their service according to the terms and conditions of their contracts or appointments.

Section 8. Procedure for Exercising Jurisdiction in Each District. The Baldwin County Commission shall not exercise its planning and zoning powers and jurisdiction in any district established hereunder until the majority of the qualified electors of such district voting in an election shall have voted their desire to come within the planning and zoning authority of the Baldwin County Commission. Such election shall be held if ten percent (10%) of the qualified electors in any such district submit a written petition to the county commission expressing a desire to be subject to the planning and zoning jurisdiction of the Baldwin County Commission under authority of this act. The county commission and the judge of probate of Baldwin County shall certify or reject the accuracy of the petition no later than forty-five (45) days after receiving the petition. Upon certification, the county commission shall then instruct the judge of probate of Baldwin County to provide for an election within that district no later than ninety (90)

days after certification. Notice of such election shall be published four times during the thirty-day period immediately preceding the date of the election in a newspaper of general circulation in Baldwin County. The judge of probate shall conduct such election. All costs for such election shall be paid from the general fund of Baldwin County. If a majority of the qualified electors in a district vote in the negative in such election, then the district shall not be subject to the zoning and planning jurisdiction of the Baldwin County Commission, and the qualified electors of said district shall not be eligible to petition for another election until one year from the date of the last election. If a majority of the qualified electors in a district vote in the affirmative, then said district shall be subject to the zoning and planning jurisdiction of the Baldwin County Commission hereunder.

Section 9. Appointment of Advisory Committees. In each district wherein the qualified electors vote to become subject to the planning and zoning authority of the Baldwin County Commission as provided in Section 8 of this act, the Baldwin County Commission shall appoint an advisory committee from that district to work with and assist the planning commission in formulating and developing regulations, ordinances and zoning measures for such district. Each advisory committee shall consist of five members who shall be qualified electors. The members of each district advisory committee shall elect a chairman. Upon the adoption of zoning ordinances and regulations for such district by the Baldwin County Commission pursuant to the terms of this act, the services of such district advisory committee shall terminate and the committee shall be abolished. In any district which is contiguous to one or more municipalities, a member of the municipal planning commission of each contiguous municipality shall serve in an ex officio capacity on the advisory committee.

Section 10. Assessment of Uniform Zoning Fee. The county commission may levy upon the owner of any real property located within any district in which a majority of the qualified electors have voted in the affirmative in an election described in Section 8 above, a uniform zoning fee not in excess of \$10.00 per parcel of real property per year. Upon such levy the tax assessor of Baldwin County shall assess the uniform zoning fee on the real property subject to said uniform zoning fee within the district. The assessment shall be collected by the tax collector of Baldwin County on annual ad valorem tax bills and nonpayment of such assessment shall constitute a lien on the assessed property. Such uniform zoning fee shall not be assessed for more than two (2) years. The tax collector of Baldwin County shall collect such fee and the proceeds therefrom shall be deposited in the general fund of Baldwin County to be expended exclusively for the purpose of administering

the master plan and zoning and planning ordinances and regulations promulgated hereunder.

Section 11. Boards of Adjustment. In availing itself of the powers conferred hereunder, the Baldwin County Commission shall provide for the appointment of boards of adjustment and the regulations and ordinances adopted pursuant to the authority hereunder, shall provide that said boards of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinances and regulations in harmony with their general purposes and interests and in accordance with general or specific rules therein contained. In each district wherein a majority of the qualified electors vote in the affirmative in the election described in Section 8, a district board of adjustment shall be appointed by the Baldwin County Commission. Each board of adjustment shall consist of five members who shall be qualified electors of that district. Each member shall be appointed for a term of three years, except that in the first instance one member shall be appointed for a term of three years, two for a term of two years and two for a term of one year, and thereafter each member shall be appointed for a term of three years or until his successor is duly appointed. The members of each board of adjustment shall elect a chairman. In addition to the five regular members provided for in this section, two supernumerary members shall be appointed to serve on each board of adjustment at the call of the chairman only in the absence of regular members and while serving shall have and exercise authority of regular members. Such supernumerary members shall be appointed to serve for three-year terms and shall be eligible for reappointment. Members of each board of adjustment may be removed for cause by the Baldwin County Commission upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Each board of adjustment for each district shall adopt bylaws in accordance with the provisions of any ordinance or regulation promulgated pursuant to this act. Meetings of each board of adjustment shall be held at the call of the chairman of the board and at such other times as each board may determine, provided that no board of adjustment shall meet less than once every three months on a day to be determined by the board. Such chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the boards of adjustment shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

Section 12. Appeals to the Board of Adjustment. Appeals to the district board of adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the county in an official capacity in the enforcement of this act or of any ordinance or regulation adopted pursuant thereof. Such appeal shall be taken within thirty (30) days of said decision by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the board of adjustment all papers constituting the record upon which the action was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for hearing the appeal, give public notice to the interested parties and decide the appeal within a reasonable time. Any party may appear in person, by agent, or by an attorney.

Section 13. Powers of the Board of Adjustment. The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this act or of any ordinance or regulation adopted pursuant thereto;

(2) To hear and decide special exceptions to the terms of the ordinance or regulation as required under such ordinance or regulation; and

(3) To authorize upon appeal in specific cases such variance from the terms of the ordinance or regulation as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance or regulation will result in unnecessary hardship and so that the spirit of the ordinance or regulation shall be observed and substantial justice done; provided, however, that the foregoing provisions shall not authorize the board of adjustment to approve a use not permitted by any zoning ordinance or regulation.

In exercising the authority herein, such board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination

appealed from and make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance or regulation.

Section 14. Appeals to Circuit Court from Final Decision of Board of Adjustment. Any party aggrieved by any final judgment or decision of a board of adjustment may, within fifteen (15) days thereafter, appeal therefrom to the circuit court of Baldwin County, Alabama, by filing with the circuit court and the board of adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the board of adjustment shall cause a transcript of the proceedings and the action to be certified to the court to which the appeal is taken, and the action of such court shall be tried de novo.

Section 15. Permit and Application Fees. The Baldwin County Commission may levy permit and application fees deemed necessary to administer ordinances and zoning regulations promulgated hereunder. Such fees shall cover the cost of administrative activities performed hereunder by the agencies of the county commission and the boards of adjustment. The county commission may adopt such administrative rules and procedures as it deems necessary to carry out the provisions of this act.

Section 16. Remedies. Should any building or structure be erected, constructed, altered, repaired, converted or maintained, or land used in violation of this act or any ordinance or regulation promulgated under the authority conferred herein, the county attorney, or other appropriate administrative officer of Baldwin County, shall institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of the land or to restrain, correct or abate such violation, or to prevent the occupancy of any such building, structure, or to prevent any illegal act, conduct, business or misuse in or upon any premises regulated under the authority conferred by this act. In addition to the foregoing, the Baldwin County Commission is authorized to adopt ordinances or regulations providing for a penalty in the form of a fine for the violation of the provisions of any ordinance or regulation promulgated under the provisions of this act; provided that such fine shall not exceed one hundred fifty dollars (\$150.00) and cost of court for such offense. Each day such violation continues shall constitute a separate offense.

Section 17. Amendments. Once the master plan, zoning ordinances and regulations promulgated pursuant to this act are applicable to a district, such master plan, ordinances and regulations shall not be amended by the Baldwin County Commission until the proposed amendment has been published for three (3) consecutive weeks in a newspaper of general circulation within the county together with a notice stating the time and place that the change in master plan, ordinance or regulation will be considered by the Baldwin County Commission and stating further that at such time and place all persons who desire shall have an opportunity to be heard in favor of or in opposition to such amendment. If a parcel of property may be rezoned by the proposed amendment, a conspicuously located sign indicating the proposed amendment shall be posted on the property no less than three weeks prior to the date of the hearing indicating both the proposed amendment and the time and date of hearing on such amendment.

Section 18. Housing. The Baldwin County Planning and Zoning Commission shall have no jurisdiction over the type of single family housing or dwelling to be placed or constructed on private property.

Section 19. Conflict of Authority. The authority of the Baldwin County Commission under this act shall not conflict with present or future regulations or policies of the Alabama Department of Health. No provision of this act shall infringe upon the existing authority of the Baldwin County Planning Commission to regulate the development of subdivisions. No provision of this act shall affect any existing statute or regulation promulgated pursuant to any law creating historic or preservation districts within Baldwin County; however, such historic or preservation districts are subject to the provisions of this act.

Section 20. Zoning Ordinances and Regulations Not Retroactive. No zoning ordinance or regulation promulgated by the Baldwin County Commission under the authority of this act shall change any use to which land is being made at the time such zoning ordinance or regulation becomes applicable to any district.

Section 21. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 22. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:43 P.M.

Act No. 91-720

H. 121 — Rep. Higginbotham

AN ACT

Relating to the George Wallace, Jr., linked deposits plan pursuant to chapter 21, Title 5, Code of Alabama 1975; to amend Sections 5-21-2, 5-21-3, 5-21-4 and 5-21-11, Code of Alabama 1975, so as to expand the plan to include discretionary emergency interim deposits to support loans made for property loss due to natural or man-made disasters; to provide further for definitions and legislative intent; to authorize such emergency deposits and define the term in interest rate of such deposits and to extend the plan to September 30, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 5-21-2, 5-21-3, 5-21-4 and 5-21-11, Code of Alabama 1975, are hereby amended to read as follows:

“§5-21-2.

“The legislative purpose and intent of this chapter is to create a plan for emergency interim deposits as herein defined and for linked deposits in this state in which the state treasurer is authorized to deposit or invest a portion of the state’s portfolio of investments with participating lending institutions in relatively low-yielding deposit accounts, certificates of deposit, or other authorized investments, where such institutions have made commitments to make available lower cost loans on the basis of these linked deposits for qualifying private farm and small business borrowers. The further legislative intent is that such lower cost loans will result in a significant contribution to the economic and agricultural growth and development of the state, and will assist in maintaining or improving business and agricultural profitability as well as preserving and creating jobs for Alabama citizens.”

“§5-21-3.

“For purposes of this chapter, the following terms shall have the meaning hereinafter ascribed to them, unless the context clearly indicates otherwise:

“(1) **PLAN.** The Wallace plan for linked deposits, created in section 5-21-4 hereof.

“(2) **TREASURER.** The treasurer for the state of Alabama.

“(3) **LENDING INSTITUTION** or **ELIGIBLE LENDING INSTITUTION** or **LENDER.** All state banks, savings and loan associations, and any other lending institutions of this state which are or shall become a depository of state funds, which agree to participate in a linked deposit plan.

“(4) **LINKED DEPOSIT** or **LINKED DEPOSIT PLAN.** An agreement between the treasurer and an eligible lending institution

whereby a deposit is placed with the institution at a rate of return which is up to three percent below the current market rate for such a deposit, as determined by the treasurer, provided the institution agrees to lend the equivalent value of such deposit to eligible agricultural and business operations at a correspondingly reduced rate of interest, as hereinafter provided.

“(5) **ELIGIBLE AGRICULTURAL OPERATION.** Any person, corporation, partnership, or other entity which is engaged in the production of agricultural, livestock, poultry, timber, dairy, or fruit or other horticultural products and which:

“a. derives at least 70 percent of its gross income from such production; and

“b. operates exclusively in Alabama.

“(6) **ELIGIBLE BUSINESS OPERATION.** Any person, proprietor, corporation, partnership or other entity which:

“a. is headquartered in Alabama;

“b. is organized for profit;

“c. maintains facilities exclusively in Alabama;

“d. has no more than 150 employees at the time it applies for a loan under the plan;

“e. for loans of \$250,000.00 or less, demonstrates to the lending institution that a significant number of jobs are sustained or created as a result of the loan; and

“f. for loans in excess of \$250,000.00, demonstrates to the lending institution that for each \$10,000.00 worth of loan proceeds approved, at least one new job is created within the state.

“(7) **EMERGENCY INTERIM DEPOSITS.** Deposits discretionarily made by the treasurer in support of loans made by eligible lending institutions to persons, businesses, organizations or local governments which have suffered loss, and which are located in areas in which property loss has occurred due to fire, flood, tornado, hurricane or other act of God or other natural or man-made disaster.”

“§5-21-4.

“(a) The Wallace plan for linked and emergency interim deposits, hereinafter referred to as ‘the plan’ is hereby created. The state treasurer is authorized, effective April 7, 1988, and until September 30, 1995, to use up to 12 percent of the total amount of investment funds of the state portfolio for the plan as linked deposits for eligible loans or for emergency interim deposits, as herein defined, made at the treasurer’s discretion.

“(b) The term of any emergency interim deposit shall not exceed one year, and the deposit shall be made at a rate of return which is up to three percent below the current market rate for such a deposit, as determined by the treasurer, provided the institution agrees to lend the equivalent value of such deposit at a correspondingly reduced rate of interest.”

“§5-21-11.

“The provisions of this chapter shall become effective April 7, 1988; and the provisions hereof shall terminate September 30, 1995, unless specifically continued by an act of the legislature.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:10 P.M.

Act No. 91-721

H. 911 — Rep. Carothers

AN ACT

To create “The Tractor, Farm Equipment, Lawn and Garden and Light Industrial Equipment Franchise Act” in order to provide for the fair regulation of tractor, farm equipment, lawn and garden and light industrial equipment manufacturers, distributors, wholesalers, dealers, and their representatives; to provide for the regulation of dealings and transactions between manufacturers and distributors or wholesalers and their dealers; to prohibit unfair and deceptive trade practices; to protect the freedom to contract; to prescribe remedies for violations of the provisions of the act; and to repeal Section 8-21-1 through 8-21-14, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. This act may be cited as “The Tractor, Lawn and Garden and Light Industrial Equipment Franchise Act.”

Section 2. As used in this act, the following terms shall have the ascribed meanings unless the context indicates a different meaning:

(1) **MANUFACTURER, DISTRIBUTOR, or WHOLESALER.** Any person, company, or corporation who sells or distributes new tractors, lawn and garden equipment, and light industrial equipment to dealers.

(2) **EQUIPMENT.** Machines designed for or adapted and used for agriculture, horticulture, livestock, grazing, lawn and garden and/or light industrial purposes.

(3) **EQUIPMENT DEALER, TRACTOR DEALER, DEALER, LIGHT INDUSTRIAL DEALER, DEALERSHIP, EQUIPMENT DEALERSHIP.** Any person, partnership, corporation, association or other business entity engaged primarily in the business of selling, retailing, and/or leasing and servicing farm tractors, machines, implements, lawn and garden tractors and equipment, and light industrial tractors and equipment, along with attachments and related repair parts. This does not include lawn and garden dealers or light industrial dealers that are not primarily engaged in the farm equipment business. This does not include persons or companies primarily engaged in the sales of heavy duty industrial tractors and equipment used in road construction or maintenance, or forestry equipment. This does not include persons primarily engaged in the auction sale of tractors and farm equipment and light industrial equipment nor dealers in exclusively used tractors, farm equipment and light industrial equipment.

(4) **SUPPLIER.** The manufacturer, wholesaler or distributor of the tractor, equipment, lawn and garden equipment, light industrial tractors and equipment, and/or repair parts to be sold by the dealer.

(5) **DEALER CONTRACT, DEALER AGREEMENT or FRANCHISE.** An agreement or contract, expressed or implied, oral or written, by and between a supplier and a dealer by which the dealer is granted the right to purchase, sell, distribute and/or service the supplier's equipment, and in which there is a community of interest in the marketing of farm tractors, lawn and garden equipment, light industrial equipment or services related thereto.

(6) **COST or NET COST.** The actual price paid by the dealer to the manufacturer, distributor or wholesaler, plus freight costs paid by or charged to the dealer.

(7) **CURRENT NET PRICE.** The dealer's price as listed in the supplier's effective price list and/or catalog.

(8) **GOOD CAUSE.** Failure of the dealer to substantially comply with requirements of the dealer agreement, provided such requirements are not different from, nor enforced differently than those requirements imposed on other similarly situated dealers.

(9) **CONTINUING COMMERCIAL RELATIONSHIP.** Any relationship in which the equipment dealer has been granted the right to sell and/or service equipment manufactured by the supplier.

(10) **INVENTORY.** Tractors, farm implements, machinery, equipment, lawn and garden tractors and equipment, light industrial tractors and equipment and repair parts held by the dealer.

(11) **WRITTEN NOTICE.** In addition to a delivered written notice, such notice shall include notice by any other accepted means including, but not limited to, notice by "electronic mail" or its equivalent.

Section 3. It shall be a violation of this act for a supplier:

(1) To coerce, compel or require any dealer to order or accept delivery of any equipment or parts with special features or accessories not included in the base list price of such equipment as publicly advertised by the supplier which the dealer has not voluntarily ordered; or

(2) To coerce, compel or require any dealer to enter into any agreement, whether written or oral, as a supplement to an existing dealer agreement with such supplier unless such supplemental agreement is imposed on all other dealers in the state doing business with that same supplier; or

(3) To discriminate in the delivery of equipment to any dealer in reasonable quantities and within a reasonable time after receipt of the equipment dealer's order, if such equipment covered by the dealer agreement was specifically represented by such supplier to be available for immediate delivery. However, the failure to deliver any such equipment shall not be considered a violation of this act if such failure is due to prudent and reasonable restriction on the extension of credit by the supplier to the dealer, an act of God, work stoppage or delay due to a strike or a labor difficulty, a bona fide shortage of materials, freight embargo or other causes over which the supplier has no control; or

(4) To terminate, cancel or fail to renew a dealer's agreement or substantially alter that dealer's competitive circumstances without good cause; or

(5) To condition the renewal or extension of a dealer agreement on the dealer's substantial renovation of the dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the dealer, unless:

- a. dealer is given at least 12 month's notice in advance;
- b. the supplier's demand is shown to be reasonable; and
- c. the supplier can demonstrate an actual need or necessity for such a change in the place of business in order that the dealer be in a position to adequately serve the public's needs in his trade area at that particular time; or

(6) To discriminate in the offering of net prices, sale promotion plans, or any and all other devices of programs that affect the ultimate net price paid by the dealer for any item of equipment offered

to the dealer by the supplier. "Item of equipment" shall include, but not limited to, tractors, any equipment or attachments, garden tractors, lawn and garden equipment or any other items offered by supplier to their dealer. The provisions of this subdivision shall not apply to the sales to an equipment dealer for resale to any unit or agency of the United States government, the state, or any of its political subdivisions or any municipality located within this state, and provided further that there is no violation of this subdivision so long as a supplier sells or offers to sell its products to all of its dealers at an equal price; or

(7) To prevent or attempt to prevent, by contract or otherwise, any dealer from changing the capital structure of his dealership or the means or sources through which he finances the operation of his dealership so long as the dealer continues to meet the reasonable capital requirements which have previously been agreed upon by dealer and supplier and the change does not result in a change of controlling interest, or in the executive management of the dealership; or

(8) To prevent or attempt to prevent, by contract or otherwise, any equipment dealer or any officer, member, partner or stockholder of any dealer from selling or transferring any part of the interest of any one of them to any other person or persons or party or parties. However, no dealer, officer, partner, member or stockholder shall have the right to sell, transfer, or assign the dealership and/or the dealer agreement without the written consent of the supplier, provided however that such consent shall not be unreasonably withheld; or

(9) To require the dealer to agree to a release, agreement, waiver or any other modification that would relieve supplier or dealer from liability imposed by this act; or

(10) a. To unreasonably withhold consent, in the event of the death of the dealer or the principal owner of the dealership, to the transfer of the dealer's interest in the dealership to a member or members of the family of the dealer or the principal owner of the dealership or to another qualified individual if the family member or other qualified individual meets the reasonable requirements, business experience and character standards required of all dealers at that time by the supplier. In the event the supplier determines that the designated family member or other qualified individual is not acceptable, supplier shall provide the dealer or his family with written notice of its objections and specific reasons for withholding its consent. Frivolous or capricious reasons will not be acceptable to satisfy the requirements of this section. A supplier shall have 30 days in which to consider and make a determination on a dealer's request to make a transfer to a family member or other qualified individual. As used

herein, "family" means a spouse, parents, siblings, children, stepchildren, sons-in-law, daughters-in-law, and lineal descendants including those by adoption of the dealer or principal owner of the dealership.

b. Notwithstanding the foregoing, in the event that a supplier and dealer have previously duly executed an agreement concerning succession rights prior to the dealer's death, and if such agreement has not been revoked, such agreement shall be observed, even if it designates someone other than the surviving spouse or heirs of the decedent as the successor.

(11) Notwithstanding the provisions of this section, the supplier may determine that a dealer's area of responsibility or trade area does not afford sufficient sales potential to continue to reasonably support a dealer.

Section 4. (a) Notwithstanding any Dealer Agreement, Sales Contract, Franchise Agreement, or other agreement by and between dealer and supplier except where grounds for termination or nonrenewal of a dealer's agreement or a change in his competitive position are contained in subdivision paragraphs (1), (2), (3), (4), (5), or (6) of following subdivision (b) of this section, a supplier shall give a dealer at least sixty days written notice of the supplier's intent to terminate, cancel or not renew a dealer agreement or change the dealer's competitive circumstances. The notice shall state all reasons relied upon by supplier to show good cause for such action and shall provide the dealer with a reasonable time in which to correct any claimed deficiency with a minimum of at least six months. Once mutually agreeable steps have been outlined, agreed upon, and implemented, then such notice of termination shall be void. The contractual terms of the dealer agreement shall not expire or a change be made in the dealer's competitive circumstances, without the written consent of the dealer, prior to the expiration of at least ninety (90) days following such notice.

(b) As used in this act, a termination by a supplier of a dealer's agreement or a change by the supplier in dealer's competitive circumstances, shall be with good cause when the dealer has:

(1) Transferred a controlling ownership interest in the dealership without the supplier's consent; or

(2) Made a material misrepresentation to the supplier when applying for the dealer agreement; or

(3) Filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against the dealer which has not been discharged within sixty days after the filing; is in default under the provisions of a security agreement in effect with the supplier; or is insolvent or in receivership; or

(4) Been convicted of a felony; or

(5) Failed to operate in the normal course of business for 7 consecutive business days or has terminated said business; or

(6) Relocated the dealer's place of business without the supplier's consent; or

(7) Consistently engaged in business practices which are detrimental to the consumer or supplier by way of excessive pricing, misleading advertising, failure to provide service and replacement parts or perform warranty obligations; or

(8) Consistently failed to comply with the applicable licensing laws pertaining to the products and services being represented for and on supplier's behalf.

(c) No supplier shall base its decision to terminate, cancel or not renew a dealer agreement or to change the dealer's competitive circumstances on any of the subdivisions of subsection (b) of this section except subdivisions (1), (2), (3), (4), (5), or (6) thereof unless such supplier can demonstrate through written documentation and clear and convincing evidence, the alleged lack of sales demand to support a dealership, alleged misconduct and/or lack of performance or other deficiency of the dealer. Furthermore, supplier shall also show that the reason for the decision to terminate, cancel or not renew the dealer agreement or change the dealer's competitive circumstances was in no way caused by supplier's actions.

Section 5. (a) Every supplier shall provide for the availability of repair parts throughout the reasonable useful life of any equipment sold by such supplier or dealer.

(b) Every supplier shall give written notice to and provide to its dealers, on at least an annual basis, an opportunity to return a portion of dealer's surplus parts inventory for credit. This surplus procedure shall be administered as follows:

(1) The supplier must notify its equipment dealers of a time period, in no event less than 90 days duration, during which time equipment dealers may submit their surplus parts lists and return their surplus parts to the supplier; and

(2) Pursuant to the provisions of this subdivision, a supplier must allow surplus parts return authority on a dollar value of parts equal to ten percent (10%) of the total dollar value of parts purchased on stock order by the dealer from the supplier during the twelve month period immediately preceding the notification to the dealer by the supplier or the surplus parts return program, or the month the dealer's return request is made, whichever is applicable. However, the dealer may wish to return less than ten

percent of the total value of stock order parts purchased by the dealer from supplier during the preceding twelve month period as provided above. This has no effect on the validity of this section or the dealer's rights hereunder.

(c) The provisions of this act shall not require the repurchase from a dealer of:

(1) Any repair part which has a limited storage or shelf life (such as a battery) or otherwise subject to deterioration;

(2) Any single repair part which is priced as a set of two or more items;

(3) Any repair part which, because of the condition, is not resaleable as a new part without repackaging or reconditioning;

(4) Any inventory for which the dealer is unable to furnish evidence, reasonably satisfactory to the manufacturer, distributor, wholesaler, of good title, free and clear of all claims, liens, and encumbrances;

(5) Any inventory which the dealer desires to keep, provided the dealer has a contractual right to do so. No obsolete or superseded part may be returned, but any part listed in the supplier's current parts price list or any superseded part that has not been the subject of the supplier's parts return program at the date of notification to the dealer by the supplier of the surplus parts return program, or the date of the dealer's parts return request, whichever is applicable shall be eligible for return for the credit specified.

(d) The minimum lawful credit to be allowed for returned parts shall be 85% of the dealer's cost thereof as listed in the supplier's current parts list at the date of the notification to the dealer by the supplier of the surplus parts return program, or the date of the dealer's parts return request, whichever is applicable.

(e) Applicable credit hereunder must be issued to the dealer within sixty (60) days after receipt of the dealer's returned parts by the supplier.

(f) All packing and return freight expenses incurred in the return of surplus parts under the terms of this section shall be the obligation of and borne by the dealer.

(g) The provisions of this section shall be supplemental to any agreement between the dealer and the supplier covering the return of farm equipment, attachments, and repair parts which provides the equipment dealer with greater protection. The dealer can elect to pursue either his dealer agreement remedy or the remedy provided by state law, and an election by the dealer to pursue his agreement remedy shall not bar his right to the remedy

provided herein as to those repair parts not affected by the contract remedy. Notwithstanding anything contained herein, the rights of a supplier to charge back to the dealer's account previously paid or credited as a discount incident to the dealer's purchase of goods shall not be affected. Further, any repurchase hereunder shall not be subject to the provisions of the bulk sales law.

Section 6. (a) Whenever any dealer enters into a dealer agreement with a supplier wherein the dealer agrees to maintain an inventory of equipment and/or repair parts and the dealer agreement is subsequently terminated or not renewed, whether by either party or mutual consent of both, the supplier shall repurchase the inventory as provided in this section. Further, supplier shall repurchase at its fair market value or assume the lease responsibilities of any specific data processing hardware and/or software that the supplier required the dealer to purchase to satisfy the minimum requirements of the dealer agreement and repurchase at 75% of the current net price any merchandising tools, accessories, and specialized repair tools, previously purchased pursuant to requirements of the supplier and held by the dealer on the date of termination. Dealer may, at his option, elect to retain such tools if it is not in violation of any contract terms held by the supplier.

(b) If the dealer decides not to keep the inventory, supplier shall repurchase the inventory, specific data processing hardware and software, merchandising equipment, tools and accessories, and specialized repair tools previously purchased by dealer and held by dealer on the date of termination of the dealer agreement. Supplier shall pay 100% of the net cost of all new, unsold, undamaged and complete tractors and equipment, 100% of the current net price of all new, unused, undamaged repair parts and accessories which are listed in the supplier's effective price list or catalog. The supplier shall also pay the dealer six percent of the current net price of all new, unused and undamaged repair parts returned as payment for the cost of handling, packing, and loading. Supplier shall have the option of performing the handling, packing, and loading and paying 100% of the current net price of parts in lieu of paying the additional 6% sum imposed herein for these services and in this case, the dealer shall make available to the supplier, at the dealer's address or at the places at which it is located, all equipment previously purchased by the dealer, after a satisfactory repurchase amount has been negotiated. Provided, however, that merchandising tools and accessories and specialized repair tools must have been purchased within the last three years, and must be complete, usable and unique to the product line.

(c) Upon payment or credit of the repurchase amount to the dealer, the title and right to possession of the repurchased inventory

shall transfer or be transferred to the supplier and, notwithstanding the provisions for the state's Uniform Commercial Code to file notice of a security interest, the dealer shall have a continuing security interest in the inventory until payment or the issuance of credit against any undisputed account balance claimed against dealer by supplier.

(d) The provisions of this act shall not require the repurchase from the dealer by supplier of:

(1) Any single repair part which is priced as a set of two or more items;

(2) Any repair part which, because of its condition, is not resaleable as a new part without reconditioning or repairing;

(3) Any inventory from which the dealer is unable to furnish evidence, reasonably satisfactory to the supplier, of good title, free and clear of all claims, liens, and encumbrances;

(4) Any inventory which the equipment dealer desires to keep, provided dealer has a contractual right to do so;

(5) Any equipment or repair parts which are not in new, unused, undamaged condition;

(6) Any inventory which was ordered by the dealer on or after the date of receipt of the notification of termination or nonrenewal of the dealer agreement; or

(7) Any inventory which was acquired by the dealer from any source other than the supplier, other than a successor in interest as provided in Section 12 of this act.

(e) If any supplier shall fail or refuse to repurchase any inventory covered under the provisions of this act within ninety days after termination or nonrenewal of dealer agreement, the supplier shall be civilly liable to the dealer for the total amount of one hundred fifteen percent (115%) of the current net price of the inventory, plus any freight charges paid by the dealer, plus all cost of financing such repurchase, including court costs, reasonable attorney's fee as awarded by court or statute.

Section 7. (a) In the event of the death or incapacity of the dealer or majority stockholder of a corporation operating as an equipment dealer, the supplier shall, at the option of the heirs at law, if dealer died intestate, or the executor or executrix under the terms of deceased dealer's will, if dealer died testate, repurchase the inventory from the estate the same as if the supplier had terminated the dealer agreement with good cause. The inventory repurchase provisions of Section 6 are made expressly applicable

hereto. The heirs or executor shall have nine months from the date of death of the dealer or majority stockholder to exercise the option hereunder. Nothing in this act shall require the repurchase of deceased dealer's inventory if the heirs or the executor and supplier subsequently enter into a new dealer agreement, or if a successor to the deceased dealer is agreed upon in accordance with the provisions of this act.

(b) The provisions of this section shall be supplemental to any agreement between the dealer and the supplier covering the return of farm equipment, attachments, and/or repair parts which provide the dealer with greater protection. The heirs or executor can elect to pursue either the contract remedy or the remedy provided herein, and an election by the heirs or executor to pursue contract remedy shall not bar such heirs or executor's right to the remedy provided herein as to the farm equipment, attachments and/or repair parts not affected by the contract remedy. Any repurchase hereunder is not to be subject to the bulk sales law of this state. Further, nothing shall preclude a price for return parts which is greater than the total allowance for parts allowed herein and the shipping allowance; in such case, the packing, freight and handling expense shall not be borne by the supplier as to such overage.

Section 8. Any dealer may bring an action against a supplier in court of competent jurisdiction for damages sustained by the dealer as a result of supplier's violation of any part of this act, together with the actual costs of the action, including but not limited to, reasonable attorney's fees along with any consequential damages sustained by the dealer. Dealer may also be granted injunctive relief against the unlawful termination, cancellation, nonrenewal or change in competitive circumstances by the supplier. The remedies set forth in this section shall not be deemed exclusive and shall be in addition to any other remedies permitted by law.

Section 9. The obligation of any supplier is applied to and made an obligation of any successor in interest or assignee of the supplier. A successor in interest includes, but is not limited to, any purchaser of the assets or stock, any surviving entity resulting from merger or liquidation, any receiver or any trustee of the original supplier.

Section 10. (a) Every supplier shall provide a fair and reasonable warranty agreement on any new equipment which it sells and shall fairly compensate each of its dealers for parts and labor used in fulfilling such warranty agreement. All claims for paying under such warranty agreement made by dealers hereunder for such parts and labor shall be paid within thirty days following their approval by supplier. All such claims shall be either approved or disapproved within sixty days after their receipt by

supplier. Upon disapproval of any claim submitted by the dealer, and within the time periods set forth in this section, the dealer shall be notified in writing of such disapproval, along with specific reasons for the disapproval and curative steps required.

(b) All warranty work performed by the dealer under this section shall be compensated in accordance with the reasonable and customary amount of time required to complete such work, expressed in hours and fractions thereof multiplied by the dealer's established customer hourly labor rate, which shall have previously been made known to supplier. All parts used by dealer in such warranty work shall be paid to dealer in the amount of dealer's net price for such parts, plus 15% of said sum or the supplier's current reimbursement program for warranty work, whichever is greater. Said payment is to reimburse the dealer for dealer's reasonable costs of doing business and providing such warranty service on the supplier's behalf. Supplier to have right to adjust errors discovered during audit and if necessary to adjust claims collected in error.

Section 11. The supplier will fully indemnify and hold harmless its dealer against any losses, including but not limited to: court costs, reasonable attorney's fees, any damages arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty either express or implied, or recession of the sale where the complaint, claim or lawsuit relates to the manufacture, assembly or design of new items covered by this act, parts or accessories or other matters relating to the manufacturer, beyond the control of the dealer.

Section 12. Notwithstanding the terms, provisions or conditions of any dealer franchise or dealer agreement or the terms or provisions of any waiver, and notwithstanding any other legal remedies available, any person who is injured in his business or property by a violation of this act, by the commission of any unfair and/or deceptive trade practices, or because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this act, may bring a civil action in a court of competent jurisdiction to enjoin further violations, to recover any damages sustained by him, together with the costs of the suit, including a reasonable attorney's fee. This section applies equally to both manufacturers and dealers.

Section 13. Except as otherwise provided, any civil action commenced under the provisions of this act must be brought within four years after the cause of action has accrued. The cause of action shall not accrue until constituting a violation of the provisions of this act.

Section 14. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the parts that remain.

Section 15. All laws or parts of laws in conflict with this act are hereby repealed and Sections 8-21-1 through 8-21-14, Code of Alabama 1975, are hereby specifically repealed.

Section 16. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved August 8, 1991

Time: 5:33 P.M.

Act No. 91-722

H. 830 — Rep. Freeman

AN ACT

Relating to Class 4, 5, 6, 7 and 8 municipalities (as such classes are defined in Act No. 79-263 of the Legislature of Alabama or any successor provision of law); to provide that any kidney disease treatment center that is located in any such municipality and that contains no more than ten hemodialysis units shall not be subject to or governed by the provisions of Article 9 of Chapter 21 of Title 22 of the Code of Alabama 1975; and to provide that the aforesaid exemption shall not apply to any such treatment center located in a Class 4, 5, 6, 7 or 8 municipality if such municipality is located in a county in which a Class 1, 2 or 3 municipality (as such classes are defined in the aforesaid Act or any successor provision of law) is located.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature hereby finds and declares that it is in the best interest of the State and its residents for kidney disease treatment centers to be established and operated throughout the State so that any patient needing such treatment will be able to utilize a hemodialysis unit located within a reasonable distance from his or her home; that a shortage of kidney disease treatment centers now exists in the rural areas and smaller municipalities in the State; that the existence of the certificate of need requirement with respect to new kidney disease treatment centers is a factor that hinders the establishment of new treatment centers in the less heavily-populated areas of the State; that, in order to encourage and facilitate the development of new kidney disease treatment centers in those areas of the State where such centers are most needed, it is rational, appropriate and desirable to provide an exemption from the certificate of need requirement for any kidney disease treatment center located in a Class 3, 4, 5, 6, 7 or 8 municipality that contains no more than ten hemodialysis units; and that, because of the existence in Class 1, 2 and 3 municipalities of major medical facilities that serve the residents of such municipalities and the surrounding areas, it is rational, appropriate and desirable to provide that the exemption granted by this Act shall not apply to a kidney disease treatment center located in a Class 4,

5, 6, 7 or 8 municipality if such municipality is located in a county in which a Class 1, 2 or 3 municipality is located.

Section 2. Notwithstanding any existing law to the contrary, any kidney disease treatment center that contains no more than ten freestanding hemodialysis units and that is located in a Class 3, 4, 5, 6, 7 or 8 municipality (as such classes are defined in Act No. 79-263 of the Legislature of Alabama or any successor provision of law) shall not be subject to or governed by the provisions of Article 9 of Chapter 21 of Title 22 of the Code of Alabama 1975 (including, without limitation, the provisions of said article which require that a certificate of need be obtained from the State Health Planning and Development Agency as a condition precedent to the offering or development of new institutional health services).

Section 3. The provisions of Section 2 of this Act shall not apply to a kidney disease treatment center located in a Class 4, 5, 6, 7 or 8 municipality if such municipality or any part thereof is located in a county in which a Class 1, 2 or 3 municipality or any part thereof is located.

Section 4. In the event any section, sentence, clause or portion of this Act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this Act, which shall continue effective.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 6:03 P.M.

Act No. 91-723

H.J.R. 362 — Reps. Cosby, Kennedy, Butler, Escott-Russell, Turner, Beasley, Clark (W), McDowell, Rogers (J), Newton (C), Newton (D), Hooper, Bryant, Thomas, Spratt, Dolbare, Melton, Barnes, Burke, Zoghby, Buskey (JL)

HOUSE JOINT RESOLUTION

ESTABLISHING THE JOINT INTERIM STUDY COMMITTEE ON THE FEASIBILITY OF ESTABLISHING A CIVIL WAR-CIVIL RIGHTS HERITAGE CENTER.

WHEREAS, the Alabama Legislature recognizes that the State of Alabama historically has been the pivotal catalyst in raising the national consciousness resulting in this country's policies for states rights and equal rights and, indeed, it was on our soil that two of our nation's most significant and historical events hurled our nation into a new era of maturity and compassion for its people; and

WHEREAS, the seat of the provisional Confederate government was in Montgomery where the confederation of states, seceded from the Union, assembled and wrote its Constitution which later engaged the nation in a savage and bloody Civil War which divided not only the nation but families and friends and left the South with scorched fields, economic ruin and psychological scars for decades to come although a proud and noble people; and

WHEREAS, the struggle of our black citizens for their constitutional rights long denied in both the south and the north, east and west, became a national cause, at the cost and sacrifice of lives and well-being of many blacks, whites and other national origins, and the State of Alabama saw the Civil Rights Movement born on the highways and in the streets from Selma to Montgomery, Alabama; and

WHEREAS, these two momentous events changed forever not only the face but the heart of this state and nation; and

WHEREAS, the youth of Alabama, and indeed the world, need to learn both the historical heritage and the courage of national figures of prominence and the ordinary citizens in the street who resolved the issues and met the challenges of the day to move into their future prominence; and

WHEREAS, there should be a center for educational and historical purposes to record the events of each era and the saga and landmarks of each in a central attraction with thematic references uniting each to the other and the lessons to be learned for succeeding generations; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim legislative committee on the feasibility of establishing a State Historical and Educational Center for the Civil War-Civil Rights Heritage of this state. The study committee shall study all facets of establishing such center including its physical and operational structure, site, the manner of educational and historical exhibits, equipment and techniques of preservation and prosecution, as well as tourist marketing and positive image of our citizens' contributions to the Civil War and Civil Rights movements and events. The committee shall be composed of seven members with one member from each congressional district from each house of the legislature appointed respectively by the Speaker of the House and the

Lieutenant Governor with the House sponsor and the Senate sponsor of the resolution serving as co-chairs of the committee.

BE IT FURTHER RESOLVED, That upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. The committee shall report its findings, conclusions and recommendations to the legislature not later than the fifth legislative day of the 1992 Regular Session. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee or to the business of the committee within or without the state, which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total expenditures of the committee shall not exceed \$7,500.00 per fiscal year. The committee may hold public hearings, at locations of its discretion.

RESOLVED FURTHER, That all state agencies, boards and commissions shall assist the committee as called upon, and the Alabama Historical Commission and the Department of Archives and History shall assist the Committee with facts, figures, expertise and advice as required by the Committee.

BE IT RESOLVED FURTHER, That upon its final report to the legislature the committee shall stand discharged of any further duties and obligations.

Approved August 8, 1991

Time: 4:01 P.M.

Act No. 91-724

H.J.R. 101 — Rep. Cosby

HOUSE JOINT RESOLUTION

REQUESTING THE STATE HIGHWAY DEPARTMENT TO ESTABLISH A POLICY REGARDING PRESERVATION OF WILDFLOWERS ON HIGHWAY RIGHTS-OF-WAY IN ALABAMA.

WHEREAS, a large number of people of Selma and Dallas County, Alabama, are committed to the vast natural beauty of this state; and

WHEREAS, Alabama has in that natural beauty a large number of varieties of wildflowers found in the United States; and

WHEREAS, the people of Selma and Dallas County, Alabama, do commend and express their appreciation for the wildflower planting program by the Alabama Highway Department in Dallas County, and at other sites around the state; and

WHEREAS, in other states where there has been a long-range commitment to a policy of planting and conserving native wildflowers along their highway rights-of-way, the results have proven to be extremely gratifying in terms of aesthetics, and also productive in terms of an increase in tourist dollars; and

WHEREAS, large numbers of people in Selma and Dallas County, Alabama, have been informed, and now know, that the use of native wildflowers as ground covers along Alabama's highway rights-of-way may be an alternative to other types of roadside vegetation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That state officials, as well as private citizens, be alerted to the value and desirability of Alabama's beautiful and valuable natural resource, her wildflowers, and these people of Alabama do hereby request the establishment of a policy by the Alabama Highway Department for conservation, propagation, and protection of wildflowers indigenous to the areas along appropriate portions of the highway rights-of-way of the state.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Governor of Alabama; the Mayor and City Council of Selma, Alabama; and to the Probate Judge and County Commission of Dallas County, Alabama.

Approved August 8, 1991

Time: 4:02 P.M.

Act No. 91-725

H. 248 — Rep. Harper

AN ACT

To make an appropriation from the State General Fund to the Coalition Against Domestic Violence for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. For the fiscal year ending September 30, 1992, there is hereby appropriated to the Coalition Against Domestic Violence from the State General Fund the sum of three hundred nine thousand two hundred ninety dollars (\$309,290). Of the above appropriation, \$20,000 is hereby appropriated to the Russell County Shelter for Battered Women.

Section 2. Prior to release of any funds appropriated under this bill for fiscal year 1991-92, an operations plan for fiscal year 1991-92 and an audited financial statement for all operations during fiscal year 1989-90 must be forwarded to the Director of Finance. It is the intent to release fiscal year 1991-92 funds following receipt of these reports.

Section 3. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:40 P.M.

Act No. 91-726

H. 264 — Rep. Harper

AN ACT

To make an appropriation to the Department of Public Health for the fiscal year ending September 30, 1992 for educational purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Public Health from the Alabama Special Educational Trust Fund for the fiscal year ending September 30, 1992 the sum of five million two hundred sixty-eight thousand two hundred fifty-four dollars (\$5,268,254).

- | | |
|---|-----------|
| (a) Health Support Services Program | 1,843,890 |
| The above appropriation shall be expended for the continuation of the programs in Public School Sanitation, immunization activities at the county level and child health. | |
| (b) Personal Health Services Program | 2,897,539 |
| The above appropriation shall be expended for continuation of the programs for immunization of pre-school children and students, dental health and nursing services. | |
| (c) Administrative Services Program | 526,825 |
| The above appropriation shall be expended for the continuation of the program on Primary Preventive Health Education. | |

Section 2. The above appropriation is for educational purposes which shall include but not be limited to providing for public school food sanitation, mandated immunization of pre-school children and primary preventive health education.

Section 3. The provisions of this act are severable. If any section, paragraph, sentence, clause, provision, or portion of the act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

Section 4. This act shall become effective on October 1, 1991.

Approved August 8, 1991

Time: 4:47 P.M.

Act No. 91-727

S.J.R. 101 — Senator Amari

SENATE JOINT RESOLUTION

SUPPORTING THE ESTABLISHMENT OF A SILVER HAired LEGISLATURE.

WHEREAS, about half of the fifty states now have Silver Haired Legislatures to educate the elderly about issues that are of local, state and national concern; and

WHEREAS, the Silver Haired Legislatures are comprised of persons aged sixty and over who are elected from districts and, during their term of office, are educated in many aspects of the legislative process through participation in bill drafting, committee work, testifying and debate on vital issues of concern to the elderly; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby support the establishment of an Alabama Silver Haired Legislature to be patterned after the state Legislature and desire that it work in cooperation with the Alabama network on aging including the Alabama Commission on Aging, the area agencies on aging and their sponsoring organizations.

BE IT FURTHER RESOLVED, That the sessions of the Silver Haired Legislature shall not conflict with the sessions of the

Legislature and may be held in the chambers of the Senate and House of Representatives of the Legislature of Alabama in accordance with the rules of order of each house.

RESOLVED FURTHER, That the Alabama Commission on Aging and other agencies and the Legislative Fiscal Office and Legislative Reference Service shall provide support such as technical assistance and data as the Silver Haired Legislature may require and that the Clerk of the House and the Secretary of the Senate shall provide assistance.

Approved August 8, 1991

Time: 3:58 P.M.

Act No. 91-728

S. 728 — Senator Sanders

AN ACT

Relating to Perry County; to provide an expense allowance for the Sheriff of Perry County and to provide for retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Perry County shall receive an expense allowance of \$5,000.00 annually, payable in equal monthly installments. Said Expense allowance shall be in addition to all other compensation, expenses, allowances or benefits granted to the Sheriff and shall be payable from the county general fund, retroactive from October 1, 1990.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 6:16 P.M.

Act No. 91-729

S. 732 — Senator Sanders

AN ACT

Relating to Dallas County; providing for fire protection in certain areas of the county; levying a special fire protection property tax; providing for certain exemption from such tax and for collection of such tax; providing for disposition of funds from such tax to the county fire association and to the volunteer fire departments;

providing for expenditure and accounting of such funds; providing for treatment of funds upon dissolution or abandonment of a volunteer fire department; granting immunity from certain liability to the county and providing for a referendum election on the provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply only to those portions of Dallas County located outside the corporate boundaries of the City of Selma.

Section 2. The Legislature hereby declares that the county fire association and the volunteer fire departments that receive funds pursuant to this act are organizations which are public in nature, as they promote and protect the health, safety and welfare of the citizens of the county.

Section 3. The county commission of Dallas County is hereby authorized and empowered to levy and collect a special property tax, in addition to all other taxes now or hereafter provided by law, not exceeding three and one-half mills on each one dollar's worth of taxable property outside the corporate limits of the City of Selma, as assessed for state ad valorem taxation during the preceding year. The proceeds of the additional taxes levied by this act shall be used exclusively for fire, emergency medical and rescue services.

Section 4. The tax assessor of Dallas County shall assess the tax herein provided for, and the tax collector of Dallas County shall collect the tax, in the same manner and method that other ad valorem taxes are collected. The proceeds of said tax shall be paid into a special county fund. Within thirty days of payment into such special fund, the county commission shall allocate said funds among the Dallas County Fire Association and eligible volunteer fire departments. The Dallas County Fire Association shall receive two thousand dollars from such funds and the remainder of said funds shall be divided equally among the eligible volunteer fire departments.

Section 5. An eligible volunteer fire department, for purposes of this act, shall mean a volunteer fire department located in Dallas County that maintains an ISO approved rating and/or that is certified under the Alabama Forestry Commission guidelines.

Section 6. Funds paid to eligible volunteer fire departments shall only be expended for fire protection and emergency medical and rescue services, including training, supplies and equipment. Said funds may also be expended to purchase liability insurance to insure coverage of acts or omission which are directly related to the functions of a volunteer fire department which are committed by a volunteer fire department and/or the personnel of a volunteer fire department. Said funds may not be expended for salaries, food, drink, social activities or fund-raising activities. After receiving

funds, the volunteer fire departments shall keep accurate records to verify that the funds were properly expended. By September 15th of each year, the department shall file a financial statement with the county association and the county commission detailing the expenditure of all funds during the previous twelve months. Said filing shall also account for all unspent funds and whether said unspent funds have been obligated. The county association shall supply the accounting forms to each eligible volunteer fire department. Provided, further, that no new fire departments shall be funded within Dallas County without the prior approval of the Dallas County Association of Volunteer Fire Departments, the Alabama Forestry Commission and the Dallas County Commission.

Section 7. Upon dissolution or abandonment of any eligible volunteer fire department, any remaining funds derived from this act or any assets purchased with funds derived from this act shall, after all indebtedness has been satisfied, be transferred to the county commission. Said funds and assets, shall be reallocated by the county commission to other volunteer fire departments. In the event there are no volunteer fire departments, the funds or assets shall be placed in the county general fund.

Section 8. The personnel of volunteer fire departments provided for in this act shall not be considered as employees, servants or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of said personnel of volunteer fire departments.

Section 9. A referendum election shall be held in Dallas County on the same date as the first special or regular countywide election is held following passage of this act. On the ballot the question shall be presented substantially as follows: "Do you favor the provisions of Act No. 91-____ of the 1991 Regular Session which levies an additional 3 1/2 mill ad valorem tax to be used to fund volunteer fire departments and the county fire association? Yes ____ No ____." If a majority of the qualified electors of those portions of Dallas County located outside of the corporate limits of Selma vote "Yes," the provisions of this act shall thereupon become effective. If a majority vote "No," the provisions of this act shall become invalid and shall have no further effect of law.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are hereby repealed.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 3:55 P.M.

Act No. 91-730

S. 505 — Senator Langford

AN ACT

To amend Section 37-3-32 of the Code of Alabama 1975, relating to motor carrier fees paid to the public service commission, so as to provide further for such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-3-32 of the Code of Alabama 1975, is hereby amended to read as follows:

“§37-3-32.

“In addition to all of the taxes and fees prescribed by law, motor carriers shall pay to the commission under the provisions of this chapter the following:

“(1) Every application for a certificate of public convenience and necessity or permit under this chapter shall be accompanied by an application fee in the amount of \$100.00.

“(2) Every application for an amendment of a certificate of public convenience and necessity or permit shall be accompanied by an application fee of \$100.00.

“(3) Every application for transfer of a certificate of public convenience and necessity or permit shall be accompanied by a fee of \$25.00.

“(4) Every application for approval of a lease of a certificate of public convenience and necessity for a period of more than six months shall be accompanied by a fee of \$10.00.

“(5) a. For every motor vehicle to be used by a motor carrier on the highways of the state of Alabama there shall be paid a registration fee in the amount of \$6.00, and the commission is given authority to adopt reasonable rules and regulations for the issuance of an appropriate or distinguishing number for each such motor vehicle upon which the registration fee prescribed by this chapter shall have been paid and such registration or distinguishing number shall remain with the motor vehicle for which it was

issued and shall be nontransferable. It shall be unlawful for a motor vehicle to be operated on the highways of this state without having conspicuously displayed on the sides thereof a registration or distinguishing number duly prescribed and issued for such vehicle by the commission under the provision of this chapter.

"b. Of such registration fee, \$1.00 shall be paid into the state treasury in the motor carrier fund as provided in this section. The remaining portion of this fee shall be paid over to the treasurer and shall be held in the commission's operating fund, and shall be paid out by the treasurer in payment of expenses incurred by the commission in the regulation of motor carriers upon warrants drawn as provided by law upon the treasurer and approved as required by law.

"The commission may negotiate and enter into written reciprocity agreements with other states regarding the payment of these fees.

"All said tax penalties, fees and allowances collected under this chapter except those registration fees in excess of \$1.00 collected under subsection (5) above shall be paid into the state treasury within 30 days after their receipt and shall be kept separate and apart from all other funds by the state treasury in a fund to be known as the 'motor carrier fund'."

Section 2. All laws or parts of laws which conflict with this act are hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 5:41 P.M.

Act No. 91-731

S. 411 — Senator Hale

AN ACT

To amend Section 2-3-22 of the Code of Alabama 1975, which states that the operation of any facility or market constructed under this article shall be under the commissioner of agriculture and industries and that he is empowered to employ personnel in the unclassified service to now allow the commissioner to employ one person in the unclassified service for each market owned, controlled, or managed by the board or department of agriculture and industries.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2-3-22 of the Code of Alabama 1975, is hereby amended to read as follows:

“§2-3-22.

“The operation of any structure, facility, equipment or market as provided in this article shall be under the commissioner of agriculture and industries. He is empowered to employ any necessary personnel for the efficient operation of said facilities or markets. At the discretion of the commissioner, one person for each market may be employed in the unclassified service.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 8, 1991

Time: 4:00 P.M.

Act No. 91-732

H. 203 — Rep. Harper

AN ACT

To make annual appropriations for the support, maintenance and development of public education in Alabama and for debt service and capital improvements for the fiscal year ending September 30, 1992.

Be It Enacted by the Legislature of Alabama:

SECTION 1. There is hereby appropriated for the support of public education in Alabama for the fiscal year ending September 30, 1992, and for the public debt, to be paid out of funds specified in subsection (a) of Section 2 of this Act, the amounts specified in Sections 3 to 4 of this Act. For the purpose specified in subsection (b) of Section 2 of this Act, amounts are shown by programmatic area and the total for all programs is shown so as to include estimated sources of funds other than the appropriation made in subsection (a) of Section 2 of this Act. For the purpose of this Act, “ASETF” shall mean the Alabama Special Educational Trust Fund and “Federal and Local Funds” shall mean all gifts, grants, contributions, or entitlements, including grants by the Congress of the United States, municipalities or counties.

SECTION 2. (a) The appropriations provided for in this Act shall be paid from funds in the State Treasury to the credit of the Alabama Special Educational Trust Fund, Alabama Peace Officers' Standards and Training Fund, and Public School Fund and are hereby made for the support of public education in Alabama for the fiscal year ending September 30, 1992, and the appropriations herein made shall be subject to the provisions, terms, conditions and limitations of the Budget and Financial Control Act (Code of Alabama 1975, as amended, Sections 41-4-80 through 41-4-96), the provisions of The Budget Management Act of 1976 (Code of Alabama 1975, as amended, Sections 41-19-1 through 41-19-12), and shall be in the amounts hereinafter specified.

(b) Amounts shown herein under the columns "Earmarked Funds" and "Appropriation Total" are as set forth for the purpose of establishing amounts estimated to be available by programmatic area from sources other than from appropriations made in subsection (a) of this Section 2, in order, upon consideration of such other funds so estimated to be available, to promote the accountability for an efficient use of funds available and are hereby appropriated by the Legislature. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

Fund Sources Included In Appropriation Total		
ASETF	Earmarked Funds	Appropriation Total

SECTION 3.

A. STATE AGENCIES:

1. AMERICAN LEGION AND AUXILIARY SCHOLAR- SHIPS:

(a) Support of Other Educational Activities Program.....	108,315
---	---------

SOURCE OF FUNDS:

(1) ASETF	108,315	
Total American Legion and Auxiliary Scholarships	108,315	108,315

To be expended under the pro-
visions of Code of Alabama

1975, as amended, Sections
16-31-1 through 16-31-4.

2. ARTS, STATE COUNCIL ON THE:

(a) Fine Arts Program..... 2,973,774

SOURCE OF FUNDS:

(1) ASETF	2,078,774		
(2) Federal and Local Funds...		895,000	
Total State Council on the Arts..	<u>2,078,774</u>	<u>895,000</u>	<u>2,973,774</u>

In addition to the above appropriation to the State Council on the Arts, there is hereby appropriated \$450,000 to the State Council on the Arts for the Alabama Symphony to be conditioned on the availability of funds in the Alabama Special Educational Trust Fund, the recommendation of the State Finance Director and the approval of the Governor.

3. CHILD ABUSE AND NEGLECT PREVENTION BOARD:

(a) Social Services Program.... 300,000

In accordance with Sections
26-16-1 et seq., Code of
Alabama 1975.

SOURCE OF FUNDS:

(1) ASETF	<u>300,000</u>	
Total Child Abuse and Neglect Prevention Board	<u>300,000</u>	<u>300,000</u>

4. DEBT SERVICE:

(a) Debt Service Program..... 649,708

For interest on endowments
as follows:

For interest on University of
Montevallo (Alabama Col-
lege) Endowment, Esti-
mated.....34,964

For interest on Auburn University Endowment20,280

For interest on University of Alabama Endowment ...61,000

For interest on Grove Hill Endowment600

For interest on Public School Fund Endowment:

Interest on 16th Section Lands, Estimated.....410,000

Interest on School Indemnity Lands, Estimated.....90,000

Interest on Valueless 16th Section Lands.....5,825

Interest on Surplus Revenue26,764

Interest on James Wallace Fund.....275

Total Interest on Public School Fund Endowment532,864

SOURCE OF FUNDS:

(1) ASETF	649,708	
Total Debt Service.....	649,708	649,708

5. DENTAL SCHOLARSHIP AWARDS, BOARD OF:

(a) Support of Other Educational Activities Program	169,453
---	---------

SOURCE OF FUNDS:

(1) ASETF	169,453	
Total Board of Dental Scholarship Awards	169,453	169,453

To be expended under the provisions of Code of Alabama 1975, as amended, Sections 16-47-76 through 16-47-81.

6. EDUCATION, DEPARTMENT OF:

(a) Administrative Services Program.....	15,437,504
	16,277,870 *

* *1911* (Governor Guy Hunt's line item veto)

The proposed spending plan for the ASETF monies included in the above program is as follows:

Compact for Education ...46,407

Operations and Maintenance of Department5,028,875

Of the above appropriation for operations and maintenance, \$90,000 shall be expended for the Homework Hotline Assistance Program.

* ~~Leadership and~~

* ~~Management.....540,375~~

* ~~Of the above appropriation to~~

* ~~Leadership and Manage-~~

* ~~ment, an amount up to~~

* ~~\$242,560 shall be expended~~

* ~~on Project LEAD.~~

* ~~Electronic Network300,000~~

Minority Student Recruitment Program.....25,000

SOURCE OF FUNDS:

(1) ASETF 5,100,282
5,040,657 *

(2) Federal and Local Funds... 10,337,222

Total Administrative Services 5,100,282 15,437,504
Program..... 5,040,657 * 10,337,222 16,277,879 *

(b) Adult Basic Education Program..... 6,437,810

SOURCE OF FUNDS:

(1) ASETF 3,119,923

(2) Federal and Local Funds... 3,317,887

Total Adult Basic Education 3,119,923 3,317,887 6,437,810
Program.....

* ~~(c) Community Education~~

* ~~Program.....~~

978,312 *

* ~~Of the above appropriation to~~

* ~~the Department of Education~~

* ~~lyh~~ (Governor Guy Hunt's line item veto)

* ~~for Community Education,~~
 * ~~\$81,838 shall be allocated to~~
 * ~~the Birmingham Board of~~
 * ~~Education, Department of~~
 * ~~Community Education and~~
 * ~~\$15,000 shall be allocated for~~
 * ~~a continuing education pro-~~
 * ~~gram to be administered by~~
 * ~~the University of Alabama in~~
 * ~~Huntsville.~~

* ~~SOURCE OF FUNDS:~~

* (1) ASETF	750,728*		
* (2) Federal and Local Funds....		218,584*	
* Total Community Education Program	750,728	218,584	978,312*
(d) Financial Assistance Program.....			305,849,615

The proposed spending plan
 for the ASETF monies
 included in the above pro-
 gram is as follows:

Elementary Teachers
 Scholarships22,876

To be paid in accordance with
 Code of Alabama 1975, as
 amended, Section 16-23-17.

Teacher In-Service
 Centers.....1,963,901

The State Board of Education
 shall administer the In-
 Service Educational Centers
 and shall monitor said cen-
 ters for compliance with
 established accountability
 standards. Of the above
 appropriation, \$159,893 may
 be used by the State Board of
 Education for the administra-
 tion and monitoring of said
 centers. The above appropria-
 tion shall be distributed in
 the following manner:

* *GH* (Governor Guy Hunt's line item veto)

(aa) The sum of \$79,475 shall be distributed to each of the following in-service centers:

- (1) Alabama A&M University
- (2) Alabama State University
- (3) Athens State College
- (4) Auburn University
- (5) Jacksonville State University
- (6) Troy State University
- (7) University of Alabama
- (8) University of Alabama at Birmingham
- (9) University of Montevallo
- (10) University of North Alabama
- (11) University of South Alabama

(bb) The remainder of the above appropriation shall be allotted to each in-service center based on the number of state-funded teacher units earned in each region as reported by the State Department of Education, Revised Calculations for 1990-91, and the number of teachers employed as reported on the 1990-91 LEA Personnel Report for Additional Allocation for Special Education and State Vocational Education Teachers. Each in-service center shall be affiliated with the same region each center served on October 1, 1987. In addition, the appropriation made in (aa) and (bb) above shall be distributed to the named in-service centers within five days of each quarterly allotment to the State Department of Education.

SOURCE OF FUNDS:

(1) ASETF	1,986,777		
(2) Federal and Local Funds...		303,862,838	
Total Financial Assistance Program.....	1,986,777	303,862,838	305,849,615
(e) Alabama Young Farmers Education Program.....			48,140

SOURCE OF FUNDS:

(1) ASETF	48,140		
Total Alabama Young Farmers Education Program.....	48,140		48,140
(f) Instructional Technical Assistance Program			11,095,465

The proposed spending plan for the ASETF monies included in the above program is as follows:

Basic Skills Program	947,040
Early Childhood Education Administration.....	99,302
Instructional Technical Assistance.....	1,282,659
Special Education Administration.....	402,338
Vocational Education Administration.....	999,328
National Geographic Grant-Matching Funds.....	48,140

SOURCE OF FUNDS:

(1) ASETF	3,778,807		
(2) Federal and Local Funds...		7,316,658	
Total Instructional Technical Assistance Program	3,778,807	7,316,658	11,095,465
(g) Local Agency Support Program.....			20,115,441
			20,555,627 *

The proposed spending plan for the ASETF monies

* ~~lyt~~ (Governor Guy Hunt's line item veto)

included in the above program is as follows:

* ~~Advanced Placement...440,186~~

Driver Education, School Bus
Driver Training and Vehicle
Safety Inspection580,122

Free Textbooks13,547,628

Guidance and
Counseling189,204

Operations and
Maintenance311,399

School Attendance176,204

School Facilities and
Architectural Services194,530

Testing2,332,222

Emergency Food Assistance
and Child Nutrition
Programs66,261

SOURCE OF FUNDS:

	17,397,570		
(1) ASETF	17,837,756 *		
(2) Federal and Local Funds...		2,717,871	
Total Local Agency Support Program.....	17,397,570		20,115,441
	17,837,756 *	2,717,871	20,555,627 *
(h) Regulation Program			2,241,432

The proposed spending plan
for the ASETF monies
included in the above program
is as follows:

Teacher Certification and
Accreditation595,851

Undergraduate/Graduate
Program Approval....251,232

Operations and
Maintenance401,259

SOURCE OF FUNDS:

(1) ASETF 1,238,342

* ~~184~~ (Governor Guy Hunt's line item veto)

(2) Federal and Local Funds.....	<u>1,003,090</u>		
Total Regulation Program	<u>1,238,342</u>	<u>1,003,090</u>	<u>2,241,432</u>

(i) Support of Other Educational Activities Program.....			8,510
--	--	--	-------

The proposed spending plan for the ASETF monies included in the above program is as follows:

Education of Dependents of Blind Parents8,510

SOURCE OF FUNDS:

(1) ASETF	<u>8,510</u>		
Total Support of Other Educational Activities Program	<u>8,510</u>		<u>8,510</u>

For reimbursement of every state institution of higher learning, college, university, or technical college or junior college in which benefits are given to dependents of blind parents under the provisions of Code of Alabama 1975, as amended, Sections 16-33-1 through 16-33-12.

(j) Support of State Universities Program.....			50,000
--	--	--	--------

SOURCE OF FUNDS:

(1) Federal and Local Funds...	<u>50,000</u>		
Total Support of State Universities Program.....	<u>50,000</u>		<u>50,000</u>

(k) Alabama Center for Law and Civic Education.....			46,750
---	--	--	--------

SOURCE OF FUNDS:

(1) ASETF	<u>46,750</u>		
Total Alabama Center for Law and Civic Education.....	<u>46,750</u>		<u>46,750</u>

(l) Multi-System Evaluation Center			100,000
--	--	--	---------

SOURCE OF FUNDS:

(1) ASETF	100,000	
Total Multi-System Evaluation Center	100,000	100,000
(m) Education Specialist for Litter Education.....		96,750

SOURCE OF FUNDS:

(1) ASETF	96,750	
Total Education Specialist for Litter Education.....	96,750	96,750
(n) Alabama Writing Project ..		110,000

SOURCE OF FUNDS:

(1) ASETF	110,000	
Total Alabama Writing Project.....	110,000	110,000

TOTAL DEPARTMENT OF EDUCATION:

SOURCE OF FUNDS:

(1) ASETF	34,012,140 *		
	35,022,140 *		
	35,072,140 *		
	33,031,851		
		328,824,150 *	
(2) Federal and Local Funds...		328,605,566	
GRAND TOTAL DEPARTMENT OF EDUCATION.....	34,012,140 *	328,824,150 *	363,736,290 *
	35,022,140 *	328,605,566	363,846,290 *
	35,072,140 *		363,896,290 *
	33,031,851		361,637,417

7. EDUCATION, STATE BOARD OF — MINIMUM PROGRAM AND PUBLIC SCHOOL FUND:

(a) Minimum Program	762,202,079
---------------------------	-------------

SOURCE OF FUNDS:

(1) ASETF	699,525,594
(2) Public School Fund	58,000,000
(3) Local Funds.....	4,676,485

* *GH* (Governor Guy Hunt's line item veto)

Total Minimum Program, Public School Fund and Local Funds	699,525,594	62,676,485	762,202,079
---	-------------	------------	-------------

The above appropriation shall be paid in accordance with Code of Alabama 1975, as amended, Sections 16-13-50 through 16-13-59, and all other legislation pertaining thereto. For the Public School Fund all funds derived from the levy of the special annual tax of thirty cents on each one hundred dollars (\$100) of taxable property in this State for the support and maintenance of the public schools and from other funds mentioned and enumerated in Sections 257, 258, and 259 of the Constitution of Alabama 1901 and the amount appropriated from all other funds as is now provided by law, however, not more than four percent of the Public School Funds appropriated above shall be used or expended otherwise than for the payment of teachers employed in such schools. If the Public School Fund receives more revenue than appropriated for the fiscal year ending September 30, 1992, the excess in revenue shall be carried over as a beginning balance for the fiscal year beginning October 1, 1992.

The appropriation hereinabove set out for the fiscal year 1991-92 is based on 24,307 teacher units. It is provided in the event that there are more than 24,307 earned teacher units for the fiscal year 1991-92, then such amounts necessary to pay for these excess teacher units are hereby appropriated. It is further provided that in the event that there be less earned teacher units than those set out

above, then the amount that would have been necessary to pay for these earned teacher units shall not be allotted or paid. It is further provided that in the event that there be less than \$58,000,000 available from the Public School Fund for the fiscal year 1991-92, then such amount necessary to pay any such shortfall in the Public School Fund monies is hereby appropriated from the ASETF.

In allocating the funds in subsection (a) the State Board of Education shall allot as follows:

For "Board of Adjustment" awards in accordance with the Minimum Program statutes and regulations an amount not to exceed \$300,000.

For "Salaries" the total shall not exceed the sum of \$588,213,876. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	3,111.31	\$ 82,403,045
I	24,798	15,021.73	372,508,861
II	21,591	6,173.96	133,301,970
III	18,179	0.00	0
IV	15,787	0.00	0
		24,307.00	\$ 588,213,876

For "Principal Supplement" an amount not to exceed \$100 for each earned teacher unit but the total shall not exceed the sum of \$2,430,700.

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$110,557,230. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$1,421,960.

The above appropriation contained in subsection (a) shall include an allotment for transportation in accordance with the formula adopted by the State Board of Education for the distribution of the funds to be used for transportation purposes but the total shall not exceed the sum of \$59,278,313. No funds provided herein

shall be used for the payment of any personnel salaries not under the direct control, employment, and supervision of local boards of education.

8. EDUCATION, STATE
BOARD OF - LOCAL
BOARDS:

a) State Board of Education,
Local Boards Program

691,635,877*

691,785,877*

691,875,877*

691,525,877*

691,635,877*

SOURCE OF FUNDS:

691,785,877*

691,875,877*

(1) ASETF

691,525,877

691,635,877*

691,635,877*

691,785,877*

691,785,877*

Total State Board of
Education — Local Boards ...

691,875,877*

691,875,877*

691,525,877

691,525,877

To be distributed by the State
Board of Education for:

(1) Teachers' Sick

Leave.....4,742,581

Of the appropriation herein-
above made for Teachers'
Sick Leave, the rate of not
more than \$20.50 per day is
hereby appropriated. It is the
intent of the Legislature that
the rate of local supplements
paid by each school system
for teachers' sick leave for the
1990-91 fiscal year be contin-
ued at that rate through the
1991-92 fiscal year. The
above appropriation shall be
in addition to any local sup-
plements paid for teachers'
sick leave within a system.

(2) Support Personnel Sick

Leave2,014,181

Of the appropriation here-
inabove made for Support
Personnel Sick Leave, in
accordance with Code of
Alabama 1975, as amended,

**gh* (Governor Guy Hunt's line item veto)

Section 16-1-18, the rate of not more than \$17 per day is hereby appropriated.

(3) Teachers' Personal

Leave1,800,564

The appropriation hereinabove made for Teachers' Personal Leave provides for two (2) days personal leave at the rate of not more than \$20.50 per day per teacher unit for each teacher employed (except for ECIA Chapter 1 and 2 teachers). It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' personal leave for the 1990-91 fiscal year be continued at that rate through the 1991-92 fiscal year. The above appropriation shall be in addition to any local supplements paid for teachers' personal leave within a system.

(4) Support Personnel Personal

Leave440,861

The appropriation hereinabove made for Support Personnel Personal Leave, in accordance with the provisions of Code of Alabama 1975, as amended, Section 16-8-26.1, provides for two (2) days personal leave at the rate of not more than \$17 per day.

(5) Classroom Instructional

Supplies.....21,890,375

Of the appropriation hereinabove made for Classroom Instructional Supplies there is hereby appropriated an amount not to exceed five

hundred eight dollars (\$508) per teacher unit for grades K-12 for all teachers employed (except ECIA Chapter 1 and 2 teachers). Notwithstanding the provisions of Code of Alabama 1975, as amended, Section 16-13-40, the above appropriation of \$21,890,375 shall be expended solely for the purchase of instructional supplies to be used in the classrooms within each public school system. The adoption of a budget for the expenditure of this appropriation shall be by secret ballot. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that funds appropriated in this section have been expended only for instructional supplies or instructional equipment for classrooms as provided and required in Section 16-13-13, Code of Alabama 1975, as amended. On the affidavit, the superintendent shall state the amount of funds expended for use by classroom teachers and the amount of funds expended for collective purchases for instructional purposes. The affidavit of expenditures shall be subject to audit by the Examiners of Public Accounts. Any funds appropriated herein and not expended for said purpose by any school system shall revert to the Alabama Special Educational Trust Fund. In the event proration is declared in the Alabama Special Educational

Trust Fund, each local school system shall expend at least 80% of its allocation of the above appropriation for instructional supplies notwithstanding the provisions of Code of Alabama 1975, as amended, Section 16-13-144. Any law, rule or regulation to the contrary notwithstanding, each local board of education may purchase classroom school supplies in bulk pursuant to the competitive bid law, or upon resolution passed at a meeting called for the purpose and with notice, any board may allocate funds to individual schools or to teachers to purchase such classroom supplies by the voucher system and proper accounting safe-guards. Such method shall be determined prior to the beginning of the first term of the school year, by each local school board. Restrictions shall not be devised (or imposed) to prohibit the ordering of Classroom Instructional Supplies beyond December 1 to the full extent of the appropriation.

- (6) Kindergarten Instructional Supplies1,097,173

The above appropriation of \$1,097,173 shall be expended solely for the purchase of kindergarten instructional supplies to be used in the classrooms within each public school system. Each local school superintendent shall submit a notarized affidavit to the State Department of Education certifying that

funds appropriated in this section have been expended only for kindergarten instructional supplies or instructional equipment for, classrooms. On the affidavit, the superintendent shall state the amount of funds expended for use by classroom teachers and the amount of funds expended for collective purchases for instructional purposes. This appropriation shall be in addition to the funds provided herein for "Classroom Instructional Supplies." However, this appropriation shall be subject to the same rules and regulations as are Classroom Instructional Supplies and shall also be subject to Section 16-13-13, Code of Alabama 1975. Each school shall have a specific policy on the development of the budget for Kindergarten Instruction Supplies consistent with state law, and such policy shall contain a secret ballot provision for the teachers in adopting said budget. The affidavit of expenditures shall be subject to audit by the Examiners of Public Accounts. Any person expending funds not in compliance with this appropriation or falsifying certification of expenditures shall be guilty of a Class A misdemeanor. Any funds appropriated herein and not expended for said purpose by any school system shall revert to the Alabama Special Educational Trust Fund. In the

event proration is declared in the Alabama Special Educational Trust Fund, each local school system shall expend at least 80% of its allocation of the above appropriation for kindergarten instructional supplies. Restrictions shall not be devised (or imposed) to prohibit the ordering of Kindergarten Instructional Supplies beyond December 1 to the full extent of the appropriation.

(7) Maintenance8,315,164

To be distributed to all local boards of education based on a formula to be determined by the State Board of Education.

(8) Continuation of Funds Previously Granted for Special Education27,073,523

(9) Special Schools for Special Education4,033,218

To be distributed by the State Board of Education as follows: \$433,260 shall be allocated to the Tuscaloosa Regional Handicapped School a portion of which shall be used for Alberta City Summer Program for Mentally Retarded; \$43,326 shall be allocated to the Regional Center for Handicapped Children in Pickens County; \$389,934 shall be allocated to the Southwest Alabama School for Deaf and Blind; \$21,663 shall be allocated to the Jasper Shriner School; \$64,989 shall be allocated to Coffee County Board of Education - Project Independence;

\$37,260 shall be allocated to Auburn University Preschool for Multi-handicapped Children; \$64,989 shall be allocated to the Montgomery County Board of Education for the purpose of operating a program for deaf students in public schools; \$111,652 shall be allocated to the Special Education School in Vine-mont in Cullman County; \$198,000 shall be allocated to the Dothan City Board of Education for a pilot program for gifted children and a program for hearing impaired; \$25,996 shall be allocated to the Houston County Board of Education for a pilot program for gifted children; \$136,652 shall be allocated to Cullman City Special Education Program; \$64,989 shall be allocated to the Cleveland School for the Handicapped; \$24,359 shall be allocated to the Tannehill Learning Center; \$483,585 shall be allocated to the Alabama Institute for Deaf and Blind to implement the purpose of Code of Alabama 1975, as amended, Section 16-39-3, and P.L. 94-142; \$505,470 shall be allocated to the Chauncey Sparks Center for Developmental and Learning Disorders; \$30,000 shall be allocated to Huntsville City Board of Education; \$30,000 shall be allocated to the Madison County Board of Education; \$33,072 shall be allocated to the Geneva County Board of Education; \$62,000 to the Jackson County Board of

Education; \$480,000 shall be allocated to the Tuscaloosa County Board of Education, of which \$200,000 shall be transferred to the Tuscaloosa City Board of Education; \$90,000 shall be allocated to the Crenshaw County Board of Education; \$200,000 shall be allocated to the Birmingham City Board of Education; \$30,000 shall be allocated to the Ozark City Board of Education; \$30,000 shall be allocated to Dale County Board of Education; \$28,884 shall be allocated to Daleville Board of Education for a program for gifted children; \$48,140 for the Baldwin County Board of Education-Operation Excellence; \$190,350 to the Troy City School System; \$25,996 shall be allocated to Geneva City School System for a program for gifted children; \$24,070 for the Midfield City Board of Education for Special Education; \$62,000 to the DeKalb County Board of Education for the Northeast Alabama Regional Special Education Assessment Program; \$62,582 for Covington County School System for Audiological Center.

(10) Kindergarten Teacher

Units84,825,495

The above appropriation is for 3,029.72 teacher units and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$70,867,968. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	145.43	\$ 3,851,713
I	24,798	1,478.50	36,663,843
II	21,591	<u>1,405.79</u>	<u>30,352,412</u>
		3,029.72	\$ 70,867,968

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$13,780,288. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$177,239.

Of the above appropriation for Kindergarten Teacher Units, twelve (12) units shall be allocated to the Alabama Institute for Deaf and Blind for the Preschool Deaf and Blind Program.

It is the intent of the Legislature to fully fund a statewide kindergarten program at the ratio of seventeen (17) students in average daily attendance for the first four (4) months to one (1) teacher unit. In the event less than 3,029.72 teacher units are earned for the fiscal year 1991-92, then such amount shall not be allotted or paid. In the event more than 3,029.72 teacher units are earned for the fiscal year 1991-92, then such amounts necessary to pay for these excess teacher units are hereby appropriated.

(11) Continuation of Teacher
Units to reduce pupil-teacher
ratio in grades
2-613,824,425

The above appropriation is for 484.88 teacher units and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$11,590,646. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$26,485	70.31	\$ 1,862,160
I	24,798	242.44	6,012,027
II	21,591	<u>172.13</u>	<u>3,716,459</u>
		484.88	\$ 11,590,646

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$2,205,414. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$28,365.

(12) Supportive Teacher

Units54,145,341

The above appropriation provides for one extra unit or fraction thereof for each aggregate of fifteen (15) units or fraction thereof earned on regular units in the Minimum Program, Kindergarten Teacher Units in (10) and Continuation Teacher Units in (11). The above appropriation is for 1,854.77 teacher units and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$45,600,657. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	411.75	\$10,905,199
I	24,798	1,103.59	27,366,825
II	21,591	<u>339.43</u>	<u>7,328,633</u>
		1,854.77	\$45,600,657

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$8,436,180. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$108,504.

(13) Special Education Teacher
Units105,355,926

The above appropriation is for
3,600 teacher units and in-
cludes salaries, other current
expense, capital improve-
ments, and transportation at
the following rates:

For "Salaries" the total shall not exceed the sum of \$88,007,994. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	338.40	\$ 8,962,524
I	24,798	2,689.20	66,686,782
II	21,591	<u>572.40</u>	<u>12,358,688</u>
		3,600.00	\$88,007,994

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$16,374,132. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$210,600.

For "Transportation" the total shall not exceed \$763,200. No funds provided herein shall be used for the payment of any personnel salaries not under the direct control, employment, and supervision of local boards of education.

(14) Vocational 86,552,583
 Education~~86,002,583~~*

The appropriation hereinabove for Vocational Education shall be disbursed or obligated in accordance with rules and regulations approved by the State Board of Education upon the recommendation of the State Superintendent. Of the above appropriation, \$1,000,000 shall be allocated for adult training and apprenticeship programs; \$1,400,000 shall be allocated for technical program improvement; ~~and \$350,000 for the Student Linkage * Apprenticeship Program.~~ Of the above appropriation, an equal amount shall be allotted to each vocational teacher unit funded herein for support and operations.

(15) Teachers'
 Aides3,912,338

To be distributed by the State Board of Education to all local boards of education and the Alabama Institute for Deaf and Blind on the basis of average daily attendance for the preceding school year to employ teacher aides so as to provide each teacher employed a minimum of thirty consecutive minutes of time free from instructional or supervisory responsibilities each teaching day.

(16) Salary Increases for
 Tenured Teachers
 (Estimated).....87,096,818

To be distributed by the State Board of Education to the boards of all school districts to continue the additional

* *gh* (Governor Guy Hunt's line item veto)

salary allotment of ten percent of those allotments specified under the Minimum Program for the fiscal year 1984-85 for all state-funded teacher units meeting criteria established by the State Board of Education.

- (17) Support Personnel Salary Increase (Estimated).....30,960,011

To be distributed by the State Board of Education to the boards of all school districts to continue those salary increases and the state's share of salary schedule adjustments granted for fiscal year 1985-86 to all full-time support personnel and all adult and student school bus drivers of all local boards of education and all full-time support personnel and all adult and student school bus drivers in the schools under their jurisdiction with the exception of those persons listed on the official Teachers' Institute List. Full-time support personnel shall be defined as those support personnel working a minimum of 20 hours per week. Pursuant to Act 85-516 and Act 85-796, those support personnel working less than a minimum of 20 hours per week shall receive pro rata increases based on the percentage of full-time work as defined above.

- (18) Library Enhancement
(K-12).....4,900,000

To be used for the purchase of books and/or audio visual

equipment and other library materials, supplies and equipment including book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes. To be distributed based upon a formula to be determined by the State Board of Education.

(19) Guidance Counselor
Teacher Units.....9,434,223

The above appropriation is for 316.84 teacher units and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$7,974,582. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	69.70	\$1,846,004
I	24,798	<u>247.14</u>	<u>6,128,578</u>
		316.84	\$7,974,582

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$1,441,106. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$18,535.

(20) Driver Education Teacher
Units.....8,283,724

The above appropriation is for
290 driver education units

or other teacher units as approved by the local Board of Education and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the total shall not exceed the sum of \$6,947,732. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of TU</u>	<u>Total</u>
AA	\$ 26,485	22.04	\$ 583,729
I	24,798	180.38	4,473,063
II	21,591	<u>87.58</u>	<u>1,890,940</u>
		290.00	\$6,947,732

For "Other Current Expense" an amount not to exceed \$4,548.37 for each earned teacher unit but the total shall not exceed the sum of \$1,319,027. It is the intent of the Legislature that all lunchroom workers' salaries be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$58.50 for each earned teacher unit but the total shall not exceed the sum of \$16,965.

(21) Social Security (FICA)-
Employers' Share..130,574,353

(22) Dallas County Board of
Education-Capital
Outlay.....103,000

(23) Russell County Board of
Education - Capital
Outlay.....150,000

8A. Blount County Board of
Education - Capital Outlay
for Burned-Out Schools: 3,000,000

SOURCE OF FUNDS:

(1) ASETF..... 3,000,000

Total Blount County Board of

Education-Capital Outlay for Burned-out Schools	3,000,000	3,000,000
--	-----------	-----------

This appropriation shall become effective only if Senate Bill 103 (introduced in the 1991 Regular Session) does not become law and funds are not provided through such bill. In the event that Senate Bill 103 shall become law and funds shall be provided to the Blount County Board of Education from said bill, this appropriation from the ASETF shall be null and void.

~~* 9. PROJECT DARE DRUG
EDUCATION PROGRAM.~~

* (a) Project DARE Huntsville	385,120*
* (b) Project DARE Birmingham ..	192,560*
* (c) Project DARE Bessemer	-28,000*

* SOURCE OF FUNDS:

* (1) ASETF	605,680 *	
* Total Project DARE Drug Education Program	605,680	605,680 *

10. EDUCATION, STATE
BOARD OF - POSTSECOND-
ARY PRISON EDUCATION:

(a) Operations and Maintenance	7,346,788	1,236,406	8,583,194
(b) Library Enhancement	48,280		48,280
(c) High Technology Equipment .	96,560		96,560
(d) Prison Education Study.....	110,000		110,000
(e) Auxiliary Enterprises.....		296,155	296,155
(f) Restricted Funds		2,082,556	2,082,556

SOURCE OF FUNDS:

(1) ASETF	7,601,628		
(2) Federal and Local Funds.....		3,615,117	
Total State Board of Education - Postsecondary Prison Ed- ucation.....	7,601,628	3,615,117	11,216,745

* ~~yl~~ (Governor Guy Hunt's line item veto)

(1) The Operations and Maintenance appropriation above of \$7,346,788 to the State Board of Education for Postsecondary Prison Education shall be distributed to colleges with approved programs in accordance with the following formula: To each college in accordance with its percentage of the total credit hours attempted for the summer quarter of the school year 1989-90 and the fall, winter and spring quarters of the school year 1990-91 by all the colleges listed in this appropriation provided, however, that funding for junior college transfer credit hours shall be allotted in amounts equal to non-prison education junior colleges. The above appropriation is to be distributed to the following colleges: (1) Central Alabama Community College; (2) Atmore State Technical College; (3) John C. Calhoun State Community College; (4) Jefferson Davis State Junior College; (5) Gadsden State Community College; (6) J.F. Ingram State Technical College; (7) Theodore A. Lawson State Community College; (8) Chauncey Sparks State Technical College.

(2) The Library Enhancement appropriation above of \$48,280 is to be distributed to the colleges listed in (1) above on a fall quarter 1991-92 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$96,560 to the State Board of Education for the Postsecondary Prison System is to be distributed to the colleges listed above in (1) on a fall quarter 1990-91 full-time equivalent student enrollment basis.

(4) The prison education study funds of \$110,000 shall be allotted to Central Alabama Community College for a proposal to implement recommendations from the Correctional Education Sub-Committee of the Alabama Council on Vocational and Technical Education.

11. EDUCATION, STATE BOARD OF - JUNIOR COL- LEGE SYSTEM:

(a) Operations and Maintenance	74,087,653	38,328,569	112,416,222
(b) Library Enhancement	292,900		292,000
(c) High Technology Equipment	195,268		195,268
(d) Shoals Community College ..	300,000		300,000
(e) Lurleen B. Wallace State Junior College	300,000		300,000
(f) George C. Wallace State Community College (Dothan) ..	200,000		200,000

(g) Enterprise State Junior College	100,000	100,000
(h) Northwest Alabama Community College	100,000	100,000
(i) Patrick Henry State Junior College	150,000	150,000
(j) Lawson State Community College	100,000	100,000
(k) Jefferson Davis State Junior College	100,000	100,000
(l) Central Alabama Community College	150,000	150,000
(m) Brewer State Junior College	100,000	100,000
(n) Auxiliary Enterprises	9,342,100	9,342,100
(o) Restricted Funds	27,011,033	27,011,033

SOURCE OF FUNDS:

(1) ASETF	76,175,821		
(2) Other Funds		74,681,702	
Total State Board of Education — Junior College System	76,175,821	74,681,702	150,857,523

In addition to the above appropriation there is hereby conditionally appropriated the sum of \$300,000 to the George C. Wallace Community College at Hanceville to be conditioned upon the availability of funds in the ASETF, the recommendation of the Finance Director and the approval of the Governor.

In addition to the above, there is hereby appropriated to Jefferson State Community College \$265,611 to be conditioned on the availability of funds in the ASETF, the recommendation of the Finance Director, and the approval of the Governor.

(1) The Operations and Maintenance appropriation above of \$74,087,653 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed herein on the following formula:

(a) The sum of \$200,000 to each junior college.

It is the intent of the Legislature to increase the above base funding allocation to junior colleges in future fiscal years as increased revenue becomes available.

(b) The remainder of the appropriation is to be allotted to each junior college in accordance with its percentage of the total credit hours attempted for the summer quarter of the school year 1989-90 and the fall, winter and spring quarters of the school year 1990-91 by all the junior colleges listed in this appropriation, provided, however, the nursing and allied health credit hours will be funded on a 2:1 ratio based upon the summer quarter of the school year 1989-90 and the fall, winter, and spring quarters of the school year 1990-91 in accordance with the number of quarter hours attempted within the departments. However, only major allied health courses in animal health, paramedics, dental assistant, respiratory therapy assistant, medical laboratory assistant, physical therapy assistant, and radiation technology, will be funded at this ratio. Related courses and other allied health courses will be funded the same as non-health programs. Continuing education unit hours shall be excluded from the computations herein required. The credit hours for prison education (correctional education) shall not be calculated in this section. Funding for those hours are provided in Postsecondary Prison Education. The above appropriation is to be distributed to the following junior colleges: (1) S.D. Bishop State Community College; (2) Brewer State Junior College; (3) John C. Calhoun State Community College; (4) Chattahoochee Valley Community College (Phenix City); (5) Central Alabama Community College; (6) Jefferson Davis State Junior College; (7) Enterprise State Junior College; (8) James H. Faulkner State Junior College; (9) Gadsden State Community College; (10) Patrick Henry State Junior College; (11) Jefferson State Community College; (12) Theodore A. Lawson State Community College; (13) Northeast Alabama State Junior College; (14) Northwest Alabama Community College; (15) Shoals Community College; (16) Snead State Junior College; (17) Southern Union State Junior College; (18) George C. Wallace State Community College (Selma); (19) George C. Wallace State Community College (Dothan); (20) Lurleen B. Wallace State Junior College; (21) George C. Wallace Community College at Hanceville; (22) Shelton State Community College.

(2) The Library Enhancement appropriation above of \$292,900 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed above in (1)(b) on a fall

quarter 1991-92 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, pictures, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$195,268 to the State Board of Education for the Junior College System is to be distributed to the junior colleges listed above in (1)(b) on a needs basis as determined by the Chancellor of the Postsecondary Education System.

**12. EDUCATION, STATE
BOARD OF TECHNICAL
COLLEGE SYSTEM:**

(a) Operations and Maintenance	56,258,704	22,255,298	78,514,002
(b) Library Enhancement	485,832		485,832
(c) High Technology Equipment .	388,664		388,664
(d) Douglas McArthur State Technical College.....	100,000		100,000
(e) Chauncey Sparks State Technical College.....	200,000		200,000
(f) Council Trenholm State Technical College.....	125,000		125,000
(g) Atmore State Technical College	100,000		100,000
(h) Auxiliary Enterprises		4,521,536	4,521,536
(i) Restricted Funds.....		21,067,770	21,067,770

SOURCE OF FUNDS:

(1) ASETF.....	57,658,200		
(2) Other Funds		47,844,604	
Total State Board of Education — Technical College System .	57,658,200	47,844,604	105,502,804

In addition to the above appropriation, there is hereby appropriated \$150,000 to Opelika State Technical College to be conditioned on the availability of funds in the ASETF, the recommendation of the State Finance Director and the approval of the Governor.

In addition to the above appropriation, there is hereby appropriated \$100,000 to the Alabama Aviation and Technical College to be conditioned on the availability of funds in the ASETF, the recommendation of the State Finance Director and the approval of the Governor.

(1) The Operations and Maintenance appropriation above of \$56,258,704 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed herein on the following formula:

(a) The sum of \$275,000 to each technical college.

Except that the base granted to Carver State Technical College shall be allocated to Bishop State Community College upon final approval of consolidation by the State Board of Education. The base of \$275,000 granted to Southwest State Technical College shall be allocated to Faulkner State Junior College upon final approval of the State Board of Education to change the status of Faulkner State Junior College to a community college. Further, it is the intent of the Legislature to increase the above base funding allocation to technical colleges in future fiscal years as increased revenue becomes available.

(b) The remainder of the appropriation is to be allotted to each technical college in accordance with its percentage of the total credit hours attempted for the summer quarter of the school year 1989-90 and the fall, winter and spring quarters of the school year 1990-91 by all the technical colleges listed in this appropriation, provided, however, that the credit hours from the major flight technology courses at Wallace State College, Hanceville and the Alabama Aviation and Technical College for the same quarters as above will be funded on a 2:1 ratio and provided that the credit hours from the major registered nursing courses at Walker State Technical College for the same quarters as above will be funded at the same rate as the credit hours from the major registered nursing courses of the junior colleges. The credit hours for prison education (correctional education) shall not be calculated in this section. Funding for those hours are provided in Postsecondary Prison Education. The above appropriation is to be distributed to the following technical colleges: (1) Atmore State Technical College; (2) Alabama Aviation and Technical College; (3) Harry M. Ayers State Technical College; (4) Bessemer State Technical College; (5) S.D. Bishop State Community College; (6) John C. Calhoun State Community College; (7) Carver

State Technical College; (8) Central Alabama Community College; (9) J.F. Drake State Technical College; (10) Gadsden State Community College-Alabama Technical College Campus; (11) GSCC-Gadsden State Technical Institute Campus; (12) Richmond P. Hobson State Technical College; (13) J.F. Ingram State Technical College (base only); (14) Jefferson State Community College; (15) Theodore A. Lawson State Community College; (16) Douglas McArthur State Technical College; (17) Northwest Alabama Community College; (18) Opelika State Technical College; (19) John M. Patterson State Technical College; (20) Ed E. Reid State Technical College; (21) Shelton State Community College; (22) Shoals Community College; (23) Southwest State Technical College; (24) Chauncey Sparks State Technical College; (25) Council Trenholm State Technical College; (26) C.A. Fredd State Technical College; (27) Walker State Technical College; (28) George C. Wallace State Community College (Selma); (29) George C. Wallace State Community College (Dothan); (30) George C. Wallace State Community College (Hanceville).

(2) The Library Enhancement appropriation above of \$485,832 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed above in (1) on a fall quarter 1991-92 full-time equivalent student enrollment basis with a minimum of \$3.00 per full-time equivalent student to be expended for books. Other expenditures may include book binding, book repair, computer software, cataloging, filmstrips, newspapers, magazines, recordings, and video tapes.

(3) The High Technology Equipment appropriation above of \$388,664 to the State Board of Education for the Technical College System is to be distributed to the technical colleges listed in (1) above on a needs basis as determined by the Chancellor of the Postsecondary Education System.

13. FAMILY PRACTICE

RURAL HEALTH BOARD:

(a) Family Practice Rural Health Program	914,660
--	---------

SOURCE OF FUNDS:

(1) ASETF	914,660	
Total Family Practice Rural Health Board	914,660	914,660

14. FINANCE, DEPARTMENT OF — DATA SYSTEMS MANAGEMENT DIVISION, TELEPHONE REVOLVING FUND:

(a) Administrative Support Services Program, Estimated	2,111,781
---	-----------

SOURCE OF FUNDS:

(1) ASETF	2,111,781	
<hr/>		
Total Department of Finance — Data Systems Manage- ment Division, Telephone Revolving Fund	2,111,781	2,111,781
<hr/>		

The Telephone Revolving Fund shall assess to using agencies and institutions any additional amount necessary to provide continuing non-interrupted service of a minimum maintenance level.

15. FINANCE, DEPARTMENT OF-DATA SYSTEMS MANAGEMENT:

(a) Administrative Support Services Program	318,687
--	---------

To be expended for education and training for the Governmental Accountant and Auditor Training Program and the Certified Public Manager Program.

SOURCE OF FUNDS:

(1) ASETF	318,687	
<hr/>		
Total Department of Finance- Data Systems Management .	318,687	318,687
<hr/>		

16. FINE ARTS, ALABAMA SCHOOL OF:

(a) Fine Arts Program	1,376,433
(b) Capital Outlay Program	1,000,000

SOURCE OF FUNDS:

(1) ASETF	2,113,233	
(2) Federal and Local Funds...	263,200	
<hr/>		
Total Alabama School of Fine Arts	2,113,233	2,376,433
<hr/>		

17. FIREFIGHTERS PERSONNEL STANDARDS AND EDUCATION COMMISSION, ALABAMA/ALABAMA FIRE COLLEGE-SHELTON STATE COMMUNITY COLLEGE:

(a) Operations and Maintenance	1,224,381	305,498	1,529,879
(b) Auxiliary Enterprises		497,696	497,696

SOURCE OF FUNDS:

(1) ASETF	1,224,381		
(2) Other Funds		803,194	

Total Alabama Firefighters Personnel Standards and Education Commission/Alabama State Fire College — Shelton State Community College

1,224,381	803,194	2,027,575
-----------	---------	-----------

Of the above appropriation of \$1,224,381, the sum of \$72,210 shall be used for training and instructional equipment and the development and delivery of hazardous materials training.

18. HEALTH INSURANCE BOARD, PUBLIC EDUCATION EMPLOYEES':

(a) Administrative Support Services Program	143,940,000
---	-------------

The above appropriation of \$143,940,000 shall be expended for Hospital/Medical or Dental Insurance Assistance for professional employees, full-time support employees and adult school bus drivers of all institutions under the auspices of the State Board of Education, employees of the Alabama Institute for the Deaf and

Blind, Alabama School of Mathematics and Science and the Alabama School of Fine Arts and retired employees eligible under the provisions of Code of Alabama 1975, as amended, Section 16-25A-17. Full-time support employees shall be defined as those support employees working a minimum of 20 hours per week. The appropriation shall be allocated according to the provisions of Code of Alabama 1975, as amended, Section 16-25A-17.

It is the intent of the Legislature that the sum of \$143,940,000 appropriated hereinabove shall fund the Public Education Employees Health Insurance Program so that beginning and during fiscal year 1991-92 all eligible full-time employees shall pay the premium rate of not less than \$2.00 per month and all retired eligible employees shall pay the premium rate of not less than \$1.14 per month. The above contribution rates shall not be reduced by any administrative action by the Public Education Employees Health Insurance Board. The benefit level shall not be increased by any administrative action by the Public Education Employees Health Insurance Board; provided, however, that if the benefit level is increased by administrative action by the Public Education Health Insurance Board, the provisions of this

subsection, specifically lines 32-37 of page 40, lines 5-36 of page 41 and lines 5-7 of page 42 of this document shall be null and void. Furthermore it is the intent of the Legislature that no part of the above appropriation be used to pay for dependent coverage under said health insurance plan.

SOURCE OF FUNDS:

(1) ASETF	143,940,000	
Total Public Education Employees' Health Insurance Board	143,940,000	143,940,000

~~* In addition to the above appropriation to the Public Education Employees' Health Insurance Board, there is hereby appropriated from the Alabama Special Educational Trust Fund such additional amount as may be necessary to fully fund health claims plus maintain a twenty percent (20%) reserve in the PEEHIP fund based on claims paid in the fiscal year beginning October 1, 1991. At the end of each quarter of the fiscal year beginning October 1, 1991, the PEEHIP Board shall certify to the State Finance Director and the Legislative Fiscal Officer the amount of paid claims for that quarter and the Board's best estimate of the amount necessary to pay claims for the remainder of the fiscal year and the amount necessary to maintain a 20% reserve based on such estimate for the fiscal year~~

* *yh* (Governor Guy Hunt's line item veto)

* ~~ending September 30, 1992.~~
 * ~~By September 15, 1992, the~~
 * ~~PEEHIP Board shall certify~~
 * ~~to the State Finance Director~~
 * ~~and the Legislative Fiscal~~
 * ~~Officer the amount of paid~~
 * ~~claims through August 31,~~
 * ~~1992. The State Finance~~
 * ~~Director shall direct that the~~
 * ~~additional amount necessary~~
 * ~~to insure that the PEEHIP~~
 * ~~actual claims paid through~~
 * ~~August 31, 1992 and a rea-~~
 * ~~sonable estimate of claims to~~
 * ~~be paid in September, 1992~~
 * ~~based on actual paid claims~~
 * ~~through August, are fully~~
 * ~~paid plus the additional~~
 * ~~amount necessary for the~~
 * ~~maintenance of a 20% reserve~~
 * ~~based on paid claims for fiscal~~
 * ~~year 1992 shall be transferred~~
 * ~~from the Alabama Special~~
 * ~~Educational Trust Fund to~~
 * ~~the PEEHIP fund. Such~~
 * ~~transfer must be made prior~~
 * ~~to September 30, 1992.~~

19. HIGHER EDUCATION,
 ALABAMA COMMISSION
 ON:

(a) Planning and Coordination
 Services Program

2,463,072

The proposed spending plan for
 the ASETF monies included
 in the above program is as
 follows:

Operations and
 Maintenance.....1,409,291
 Program Evaluation192,596
 Research Enhance-
 ment.....264,770

SOURCE OF FUNDS:

(1) ASETF..... 1,866,657

* ~~by~~ (Governor Guy Hunt's line item veto)

(2) Federal and Local Funds....	596,415		
Total Planning and Coordi- nation Services Program (Total Operations).....	1,866,657	596,415	2,463,072

(b) Student Financial Aid Program.....			30,486,925
---	--	--	------------

The proposed spending plan for the ASETF monies included in the above program is to be distributed through ACHE as follows:

(1) Educational Grants Program.....	4,342,265
--	-----------

In Addition to the above appropriation for the Educational Grants Program, there is hereby appropriated from the ASETF the amount of \$1 million to be conditioned upon the availability of funds in the ASETF and approval of the Governor.

(2) Alabama National Guard Educational Assistance	193,355
---	---------

To be expended in accordance with Code of Alabama 1975, as amended, Sections 31-10-1 through 31-10-4.

(3) Emergency Secondary Education Scholarships..	1,036,942
--	-----------

To be expended in accordance with Code of Alabama 1975, as amended, Sections 16-23-18 through 16-23-23.

(4) Alabama Student Assistance Program.....	1,934,378
---	-----------

SOURCE OF FUNDS:

(1) ASETF	7,506,940		
(2) Federal and Local Funds....		22,979,985	

Total Student Financial Aid Program.....	7,506,940	22,979,985	30,486,925
--	-----------	------------	------------

In addition to the above appropriation to the Alabama Commission on Higher Education - Student Financial Aid Program, there is hereby appropriated \$3 million for the EPSCoR Program to be conditioned on the availability of funds in the ASETF, the recommendation of the State Finance Director and the approval of the Governor.

(c) Support of Other Educational Activities Program			1,718,147
---	--	--	-----------

The proposed spending plan for the ASETF monies included in the above program is to be distributed through ACHE as follows:

(1) Network of Alabama Academic Libraries (NAAL)	685,132		
--	---------	--	--

(2) Southern Regional Education Board (SREB)	384,559		
--	---------	--	--

(3) Alabama Small Business Development Consortium....	558,456		
---	---------	--	--

(4) Policeman's Survivor Tuition, Estimated.....	30,000		
--	--------	--	--

To be expended under the provisions of Section 36-21-105, Code of Alabama 1975, as amended.

(5) Alabama Council for International Programs	25,000		
--	--------	--	--

SOURCE OF FUNDS:

(1) ASETF	1,683,147		
-----------------	-----------	--	--

(2) Federal and Local Funds...		35,000	
--------------------------------	--	--------	--

Total Support of Other Educational Activities Program	1,683,147	35,000	1,718,147
---	-----------	--------	-----------

TOTAL ALABAMA COMMISSION ON HIGHER EDUCATION:

SOURCE OF FUNDS:

(1) ASETF	11,056,744		
(2) Federal and Local Funds...		23,611,400	
Grand Total Alabama Commission on Higher Education	11,056,744	23,611,400	34,668,144

20. INDUSTRIAL DEVELOPMENT TRAINING INSTITUTE, ALABAMA:

(a) Industrial Training Program		1,957,341	
(b) Industrial Development Program		4,743,978	

SOURCE OF FUNDS:

(1) ASETF	6,701,319		
Total Alabama Industrial Development Training Institute	6,701,319		6,701,319

Of the above appropriation to the Alabama Industrial Development Training Institute, \$385,120 shall be allocated to USX in Birmingham, Alabama and, whenever practical, academic, vocational and industrial training shall take place at Lawson State Community College; \$240,700 shall be allocated to Goodyear Tire and Rubber for testing, counseling and training to be conducted by Gadsden State Community College; \$240,700 shall be allocated to Gulf States' Steel Corporation for testing, counseling and training to be conducted by Gadsden State Community College; and \$240,700 shall be allocated

for the Tire Recycling Center
at Shelton State Community
College.

* ~~21. ALABAMA CENTER FOR~~
* ~~QUALITY AND PRODUC-~~
* ~~TIVITY TO BE ADMINIS-~~
* ~~TERED BY CALHOUN~~
* ~~STATE COMMUNITY COL-~~
* ~~LEGE:~~

* ~~(a) Operations and Maintenance~~ 585,000 *

* ~~SOURCE OF FUNDS:~~

* ~~(1) ASETF~~ 585,000 *

* ~~Total Alabama Center for~~
* ~~Quality and Productivity~~ 585,000 * 585,000 *

22. LIBRARY SERVICE,
ALABAMA PUBLIC:

(a) Public Library Service
Program 8,973,494

SOURCE OF FUNDS:

(1) ASETF 6,978,252

(2) Federal and Local Funds... 1,995,242

Total Alabama Public Library
Service 6,978,252 1,995,242 8,973,494

Of the above appropriation, a
minimum of \$4,937,960 shall
be distributed to the public
libraries within the state.

23. MARINE ENVIRON-
MENTAL SCIENCES CON-
SORTIUM:

(a) Support of Other Educa-
tional Activities Program 2,353,844

SOURCE OF FUNDS:

(1) ASETF 2,035,480

(2) Federal and Local Funds... 318,364

Total Marine Environmental
Sciences Consortium 2,035,480 318,364 2,353,844

* ~~24~~ (Governor Guy Hunt's line item veto)

24. MATH AND SCIENCE,
ALABAMA SCHOOL OF:

(a) Math and Science Program 2,037,687

SOURCE OF FUNDS:

(1) ASETF	2,000,000		
(2) Federal and Local Funds...		37,687	
Total Alabama School of Math and Science.....	2,000,000	37,687	2,037,687

25. MEDICAL SCHOLAR-
SHIPS AWARDS, BOARD
OF:

(a) Support of Other Edu-
cational Activities Program.. 651,816

SOURCE OF FUNDS:

(1) ASETF	651,816		
Total Board of Medical Scholarships Awards	651,816		651,816

To be expended under the pro-
visions of Code of Alabama
1975, as amended, Sections
16-47-121 through 16-47-129.

26. MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF:

(a) Institutional Treatment
and Care-Mental Illness
Program..... 2,124,383

Of the above appropriation,
\$827,818 shall be expended
at the Eufaula Adolescent
Center.

(b) Institutional Treatment
and Care-Mental Retardation
Program 780,748

SOURCE OF FUNDS:

(1) ASETF	2,905,131		
Total Department of Mental Health and Mental Re- tardation.....	2,905,131		2,905,131

27. MONTGOMERY INTERNAL MEDICINE RESIDENCY PROGRAM.....

150,000

SOURCE OF FUNDS:

(1) ASETF 150,000

Total Montgomery Internal Medicine Residency Program.....

150,000

150,000

The above appropriation to the Montgomery Internal Medicine Residency Program from the ASETF shall be in addition to the funds received by said program from the University of Alabama, Birmingham and the funds allocated to the Montgomery Internal Medicine Residency Program from UAB shall not be diminished from the amount allocated in fiscal year 1990-91.

28. NURSING, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program

54,880

SOURCE OF FUNDS:

(1) ASETF-Transfer-as provided in Code of Alabama 1975, as amended, Sections 34-21-60 through 34-21-63 for Graduate Nursing Scholarships.....

54,880

Total Alabama Board of Nursing.....

54,880

54,880

29. OPTOMETRIC SCHOLARSHIP AWARDS, BOARD OF:

(a) Support of Other Educational Activities Program

143,457

SOURCE OF FUNDS:

(1) ASETF 143,457

Total Board of Optometric Scholarship Award.....	143,457	143,457
To be expended under the pro- visions of the Code of Alabama 1975, as amended, Sections 34-22-60 through 34-22-65.		
30. PEACE OFFICERS' STANDARDS AND TRAIN- ING COMMISSION, ALA- BAMA:		
(a) Professional and Occu- pational Licensing and Regulation Program.....		309,624
(b) Certified Law Enforce- ment Academy Program		880,431
Of the above appropriation for the Certified Law Enforce- ment Academy Program, the \$530,431 of ASETF monies included therein shall be expended as follows:		
Jacksonville State University.....	182,395	
University of Alabama ...	143,883	
James H. Faulkner Jr. College	143,883	
Troy State University at Montgomery	60,270	
Total	530,431	
SOURCE OF FUNDS:		
(1) ASETF	840,055	
(2) Alabama Peace Officers' Standards and Training Fund-as provided in Code of Alabama 1975, as amended, Sections 36-21-40 through 36-21-5		350,000
Total Alabama Peace Officers' Standards and Training Commission	840,055	1,190,055

31. POSTSECONDARY EDUCATION DEPART- MENT:

(a) Postsecondary Two-Year Institutions Program	3,591,719
--	-----------

The proposed spending plan
for the ASETF monies in-
cluded in the above program
is as follows:

Chancellor's Office Operations	2,276,933
---	-----------

Of the above appropriation,
\$450,307 shall be used to
fund the Central High
School Project at Bishop
State Community College
and \$200,000 shall be used
to fund a TVA Jobs Training
Program to be administered
by Northeast Alabama State
Junior College and Snead
State Junior College.

Program Planning and En- hancement	119,366
---	---------

Displaced Homemakers' Pro- gram	115,952
--	---------

Building Operations	152,199
--------------------------	---------

Minority Students' Math and Science Scholarships ...	25,000
---	--------

SOURCE OF FUNDS:

(1) ASETF	2,689,450		
(2) Federal and Local Funds		902,269	
Total Postsecondary Education Department	2,689,450	902,269	3,591,719

32. RETIREMENT SYSTEM OF ALABAMA, EMPLOY- EES' (ASETF SHARE):

(a) Retirement Systems Pro- gram, Estimated	536,000
--	---------

SOURCE OF FUNDS:

(1) ASETF-Employees' Retirement System, Estimated	298,056	
(2) ASETF-Employees' Special Pension, Acts 85-631, 88-600, and 90-625, Estimated	237,944	
Total Employees' Retirement System of Alabama (ASETf Share)	536,000	536,000

33. RETIREMENT SYSTEM OF ALABAMA, TEACHERS' (ASETf SHARE):

(a) Retirement Systems Program, Estimated	229,972,500
(b) Term Life Insurance	3,150,000

Persons eligible for this insurance benefit shall be the following:

- (1) full-time members of the Teachers' Retirement System of Alabama shall be eligible for the full benefit; and,
- (2) part-time members of the Teachers' Retirement System of Alabama shall be eligible for proportional benefit based on the percentage of time each works in relationship to full-time work.

SOURCE OF FUNDS:

(1) ASETF-Teachers' Retirement System, Estimated	183,699,366	
(2) ASETF-Teachers' Special Pension Fund, Estimated	46,273,134	
(3) ASETF-Term Life Insurance	3,150,000	
Total Teachers' Retirement System of Alabama (ASETf Share)	233,122,500	233,122,500

34. SOCIAL SECURITY
(ASETF SHARE):

(a) For State's share of Social Security, Estimated	126,280
---	---------

SOURCE OF FUNDS:

(1) ASETF	126,280	
<hr/>		
Total Social Security (ASETF Share)	126,280	126,280
<hr/>		

The above appropriation is to be used for prior period adjustments.

35. SPORTS HALL OF FAME, ALABAMA-FOR BRYANT/JORDAN SCHOLAR ATHLETE PROGRAM:

(a) Capital Outlay Program	200,000
---------------------------------	---------

SOURCE OF FUNDS:

(1) ASETF	200,000	
<hr/>		
Total Alabama Sports Hall of Fame	200,000	200,000
<hr/>		

36. SUPERCOMPUTER AUTHORITY, ALABAMA:

(a) Administrative Support Services Program	7,764,400
---	-----------

The above appropriation is to be expended in accordance with Sections 41-10-390 through 41-10-406, Code of Alabama 1975.

SOURCE OF FUNDS:

(1) ASETF	6,000,000	
(2) Supercomputer Revolving Fund, Estimated	1,764,400	
<hr/>		
Total Alabama Supercomputer Authority	6,000,000	1,764,400
		7,764,400
<hr/>		

37. TENURE COMMISSION, STATE:

(a) Regulation Program	10,343
------------------------------	--------

SOURCE OF FUNDS:

(1) ASETF	10,343	
Total State Tenure Commission	<u>10,343</u>	<u>10,343</u>

38. TELEVISION COMMISSION, EDUCATIONAL:

(a) Educational Television Program.....		9,513,519
(b) Public Radio Service Program.....		1,210,390

SOURCE OF FUNDS:

(1) ASETF	4,802,571		
(2) Federal and Local Funds...		<u>5,921,338</u>	
Total Educational Television Commission	<u>4,802,571</u>	<u>5,921,338</u>	<u>10,723,909</u>

In addition to the above appropriation to the Educational Television Commission, there is hereby appropriated \$2 million from the Alabama Special Educational Trust Fund to the Educational Television Commission to be conditioned on the availability of funds in the ASETF, the recommendation of the State Finance Director and the approval of the Governor.

39. UNEMPLOYMENT COMPENSATION-LOCAL BOARDS:

(a) Financial Assistance Program.....		481,400
---------------------------------------	--	---------

SOURCE OF FUNDS:

(1) ASETF, Estimated.....	<u>481,400</u>		
Total Unemployment Compensation-Local Boards	<u>481,400</u>		<u>481,400</u>

40. VETERANS' AFFAIRS, DEPARTMENT OF:

(a) Administration of Veterans' Affairs Program.....		4,245,224
--	--	-----------

SOURCE OF FUNDS:

(1) ASETF-Transfer	4,245,224	
Total Department of Veterans' Affairs	4,245,224	4,245,224

The above appropriation is for Veterans' Education Benefits and includes pro rata administration costs of the Department of Veterans' Affairs and for the reimbursement to every State institution of higher learning, college, university, junior college or technical college in which benefits are given to Veterans, their wives, widows, or children under the provisions of Code of Alabama 1975, as amended, Sections 31-6-1 through 31-6-17.

41. YOUTH SERVICES,
DEPARTMENT OF:

(a) Financial Assistance Program.....	5,161,612
---------------------------------------	-----------

The above appropriation for Financial Assistance Program includes \$3,462,749 of ASETF monies. The above appropriation shall be expended by the Youth Services Department School District in a manner consistent with the funding formula cooperatively established by the Youth Services Board and the State Board of Education pursuant to the provisions of Code of Alabama 1975, as amended, Sections 44-1-70 through 44-1-77.

SOURCE OF FUNDS:

(1) ASETF	3,462,749
-----------------	-----------

(2) Federal and Local Funds...		1,698,863	
Total Department of Youth Services.....	3,462,749	1,698,863	5,161,612

**42. TENNESSEE VALLEY
EXHIBIT COMMISSION
OF ALABAMA:**

(a) Promotional Development Program.....			200,000
--	--	--	---------

The above appropriation shall be expended for educational purposes.

SOURCE OF FUNDS:

(1) ASETF	200,000		
Total Tennessee Valley Exhibit Commission of Alabama	200,000		200,000

The above appropriation shall be conditioned on a determined need, the availability of funds, the approval of the Finance Director, and the approval of the Governor.

SECTION 4.

**COLLEGES, UNIVERSITIES
AND SCHOOLS:**

**I. BOARD OF TRUSTEES
OF UNIVERSITY OF
ALABAMA:**

**A. The University of Alabama
System**

1. Operations and Maintenance and Program Support for the University of Alabama.....	85,377,930	50,658,746	136,036,676
--	------------	------------	-------------

(a) The above amounts distributed to the President of the University of Alabama for operations and maintenance funding shall include support for such entities as Industrial Management and Manufacturing Technology

and Magnetic Information Technology Programs; Center for Emotionally Disturbed Children; Alabama Poison Control Center; Nursing Scholarships; Advocacy Program for the Developmentally Disabled; Capstone Medical Center; Sports Medicine; Alabama Museum of Natural History; College of Community Health Sciences; University Research Library; Research, Extension and Public Service; School of Mines and Energy Development; Computer Research and Development; Emergency Medical Services (Paramedic Training); Rural Infant Stimulation Environment Program; High Risk Nursery; Safe State Program; Tannehill Learning Center.

2. Operations and Maintenance and Program Support for the University of Alabama at Birmingham.....

135,790,650 379,114,284 514,904,934

- (a) The above amounts distributed to the President of the University of Alabama at Birmingham for operations and maintenance funding shall include support for such entities as University College; Family Practice Residency Programs at Anniston, East End, Jefferson County, Montgomery, Selma, and Gadsden; School of Medicine; University Hospitals; School of Optometry; School of Community and Allied Health; Regional Technical Institute; Joint

Health Sciences; Educational Finance Initiative; Department of Pediatrics and Children's Hospital; Center for Labor Education and Research; Student Nurses Loans; Center for Diabetes Research; Urban Research and Public Service; School of Dentistry; System Medical Education Program; School of Nursing; Health Related Research and Public Service; Public Health Research Program; Medical Genetics Program; Nursing Scholarships; Program Enhancement/Minority Recruitment; Hypertension Research; Multipurpose Arthritis Center; School of Engineering and Business Telecommunications Research Center; School of Public Health; Montgomery Internal Medicine Residency; Center for Advancement of Developing Industries; Center for Cystic Fibrosis Research; Center for Congenital Heart Disease; Biomedical Engineering Sciences; Center for Nuclear Magnetic Resonance Studies; Dental/Medical Research; Medical Grants; Virology Research; Neuroscience Research; Geriatric Service and Research Program; Internal Medicine Development; Sudden Death Research; Research Center for Biomedical Engineering Sciences; Parkinson's Disease-Medical Research.

3. Operations and Maintenance and Program Support for the

University of Alabama in Huntsville.....	28,045,212	20,493,538	48,538,750
(a) The above amounts distributed to the President of the University of Alabama in Huntsville for operations and maintenance funding shall include support for the following entities: School of Primary Medical Care; Kenneth E. Johnson Research Center; Space Initiative; UAH Medical Clinics; Alabama Solar Energy Center; Center for High Technology Management and Economic Research; Rural Primary Care Clerkship; Research Institute; Developmental Computer Education; Center for Applied Optics; Nursing Scholarships; Center for Microgravity Science; Center for Robotics.			
4. Mental Health and Chauncey Sparks Center for Developmental and Learning Disorders, University of Alabama at Birmingham.....	4,290,731		4,290,731
5. Alabama Shakespeare Festival-University of Alabama	759,190		759,190
6. Auxiliary Enterprises		63,802,935	63,802,935
7. Restricted Funds		168,104,359	168,104,359
SOURCE OF FUNDS:			
(1) ASETF	254,263,713		
(2) Other Funds.....		682,173,862	
Total University of Alabama System	254,263,713	682,173,862	936,437,575
II. BOARD OF TRUSTEES OF ALABAMA A&M UNIVERSITY			

A. Alabama A&M University

1. Operations and Maintenance and Program Support	19,403,245	7,902,345	27,305,590
2. Auxiliary Enterprises		4,305,083	4,305,083
3. Restricted Funds		11,181,479	11,181,479

SOURCE OF FUNDS:

(1) ASETF	19,403,245		
(2) Other Funds		23,388,907	
Total Alabama A&M University	<u>19,403,245</u>	<u>23,388,907</u>	<u>42,792,152</u>

III. BOARD OF TRUSTEES
OF ALABAMA STATE UNIVERSITY

A. Alabama State University

1. Operations and Maintenance and Program Support	19,128,175	8,925,731	28,053,906
2. Auxiliary Enterprises		5,200,242	5,200,242
3. Restricted Funds		8,067,448	8,067,448

SOURCE OF FUNDS:

(1) ASETF	19,128,175		
(2) Other Funds		22,193,421	
Total Alabama State University	<u>19,128,175</u>	<u>22,193,421</u>	<u>41,321,596</u>

IV. BOARD OF TRUSTEES
OF ALABAMA STATE UNIVERSITY

A. Alabama State University-Miles College Consortium	388,111		388,111
---	---------	--	---------

SOURCE OF FUNDS:

(1) ASETF	<u>388,111</u>		
Total Alabama State University-Miles College Consortium	<u>388,111</u>		<u>388,111</u>

V. STATE BOARD OF EDUCATION

A. Athens State College

1. Operations and Maintenance and Program Support	4,643,157	3,118,841	7,761,998
2. Auxiliary Enterprises		453,443	453,443
3. Restricted Funds		1,074,941	1,074,941

SOURCE OF FUNDS:

(1) ASETF	4,643,157		
(2) Other Funds		4,647,225	
Total Athens State College	4,643,157	4,647,225	9,290,382

VI. BOARD OF TRUSTEES
OF AUBURN UNIVERSITY

A. Auburn University System

1. Operations and Maintenance and Program Support	146,548,917	80,022,332	226,571,249
2. Auxiliary Enterprises		45,623,417	45,623,417
3. Restricted Funds		62,260,444	62,260,444

SOURCE OF FUNDS:

(1) ASETF	146,548,917		
(2) Other Funds		187,906,193	
Total Auburn University System	146,548,917	187,906,193	334,455,110

VII. BOARD OF TRUSTEES
OF JACKSONVILLE STATE
UNIVERSITY

A. Jacksonville State University

1. Operations and Maintenance and Program Support	20,598,654	13,597,551	34,196,205
2. Capital Outlay	500,000		500,000
3. Auxiliary Enterprises		4,417,020	4,417,020
4. Restricted Funds		5,530,828	5,530,828

SOURCE OF FUNDS:

(1) ASETF	21,098,654		
(2) Other Funds		23,545,399	

Total Jacksonville State University.....	21,098,654	23,545,399	44,644,053
--	------------	------------	------------

It is the intent of the Legislature that \$20,000 of the above appropriation to Jacksonville State University shall be expended for the establishment of the Little River Canyon Field School Program through the Department of Biology.

VIII. BOARD OF TRUSTEES OF LIVINGSTON UNIVERSITY

A. Livingston University

1. Operations and Maintenance and Program Support.....	6,498,887	2,231,304	8,730,191
2. Auxiliary Enterprises		2,604,312	2,604,312
3. Restricted Funds		120,954	120,954

SOURCE OF FUNDS:

(1) ASETF	6,498,887		
(2) Other Funds		4,956,570	
Total Livingston University	6,498,887	4,956,570	11,455,457

IX. BOARD OF TRUSTEES OF UNIVERSITY OF MONTEVALLO

A. University of Montevallo

1. Operations and Maintenance and Program Support	10,704,602	5,819,964	16,524,566
2. Auxiliary Enterprises		4,781,138	4,781,138
3. Restricted Funds		1,547,727	1,547,727

SOURCE OF FUNDS:

(1) ASETF	10,704,602		
(2) Other Funds		12,148,829	
Total University of Montevallo	10,704,602	12,148,829	22,853,431

X. BOARD OF TRUSTEES OF UNIVERSITY OF NORTH ALABAMA

A. University of North Alabama

1. Operations and Maintenance and Program Support	15,250,840	8,573,266	23,824,106
2. Auxiliary Enterprises		2,048,591	2,048,591
3. Restricted Funds		708,952	708,952

SOURCE OF FUNDS:

(1) ASETF	15,250,840		
(2) Other Funds		11,330,809	
Total University of North Alabama	15,250,840	11,330,809	26,581,649

XI. BOARD OF TRUSTEES OF UNIVERSITY OF SOUTH ALABAMA

A. University of South Alabama

1. Operations and Maintenance and Program Support	50,809,356	179,790,176	230,599,532
2. Auxiliary Enterprises		9,619,053	9,619,053
3. Restricted Funds		16,750,000	16,750,000

SOURCE OF FUNDS:

(1) ASETF	50,809,356		
(2) Other Funds		206,159,229	
Total University of South Alabama	50,809,356	206,159,229	256,968,585

XII. BOARD OF TRUSTEES OF TROY STATE UNIVERSITY

A. Troy State University System

1. Operations and Maintenance and Program Support	21,445,923	25,142,187	46,588,110
2. Auxiliary Enterprises		7,681,418	7,681,418
3. Restricted Funds		3,568,070	3,568,070

SOURCE OF FUNDS:

(1) ASETF	21,445,923		
-----------------	------------	--	--

(2) Other Funds.....		36,391,675	
Total Troy State University System	21,445,923	36,391,675	57,837,598

Of the above ASETF appropriation of \$21,445,923, the sum of \$175,000 shall be allocated to Troy State University-Dothan for the implementation of the Wiregrass Agreement.

XIII. BOARD OF TRUSTEES OF ALABAMA INSTITUTE FOR DEAF AND BLIND

(a) Adult Programs.....	3,882,365	3,613,318	7,495,683
(b) Children and Youth Programs	11,249,801	1,970,328	13,220,129
(c) Industries for the Blind	2,104,706	11,440,000	13,544,706

SOURCE OF FUNDS:

(1) ASETF	17,236,872		
(2) Other Funds.....		17,023,646	
Total Alabama Institute for Deaf and Blind	17,236,872	17,023,646	34,260,518

It is the intent of the Legislature that of the above appropriation, not more than the following amounts shall be expended for the following functions: 1) Office of Institutional Advancement, \$175,798; 2) Office of Vice President for Instruction, \$113,818; and 3) Office of the President, \$173,005.

SECTION 5. There is hereby conditionally appropriated for the fiscal year ending September 30, 1992, the following amounts to be conditioned upon the availability of funds in the ASETF, the recommendation of the State Finance Director, and the approval of the Governor. The appropriation to the Public Library Service shall be the first priority conditional for release. No other conditional appropriations from the ASETF shall be released until this priority conditional shall have been paid in full.

1. Proration Prevention Fund ..	16,000,000
2. Alabama Mining Academy- Walker State Technical College	\$176,000

The above appropriation is to be used for the implementation of programs for training industrial workers in the energy sector.

2. Public Library Service	465,885
---------------------------------	---------

SECTION 6. No other funds provided herein for the public schools, including funds for Other Current Expenses and salaries of the Minimum Program and Financial Assistance Program and/or for support personnel salaries, shall be used for the payment of any salaries of personnel not under the direct control, employment, and supervision of local boards of education. No funds provided herein for the two-year postsecondary schools under the auspices of the State Board of Education shall be used for the payment of any salaries of personnel not under the direct control, employment and supervision of said institutions.

SECTION 7. In addition to appropriations herein made, all gifts, grants, contributions, or entitlements, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

SECTION 8. The State Superintendent of Education shall make requisitions on the State Comptroller in favor of the proper beneficiary in accordance with the law and rules and regulations governing the expenditure or disbursement of any and all funds appropriated to the State Department of Education and/or the State Board of Education in this Act, whereupon the Comptroller shall

issue his warrant therefor. Furthermore, the Executive Director of the Alabama Commission on Higher Education may submit to the Comptroller requests for timely payment of warrants to students receiving financial assistance to attend Postsecondary educational institutions. All other appropriations in this Act shall be paid on request by the Comptroller in the manner now provided by law.

SECTION 9. Nothing in this Act shall be construed to affect or repeal any law authorizing or permitting any college, school or other education or eleemosynary institution of the State to receive, collect or disburse any fees, tuitions, charges, sales, endowments, trusts or income therefrom, which are now or may hereafter be authorized to receive, collect or disburse. The receiving college, school or institution shall further maintain separate accounts for such receipts or shall maintain a system of accounting which will show a cash flow of such receipts received under the provision of this appropriation.

SECTION 10. The appropriations made herein to the departments, boards, offices, commissions, and agencies include the amount necessary and said departments, boards, offices, commissions, and agencies are hereby directed to make the transfer of funds to the State Personnel Department in the amounts enumerated in the General Appropriation Act for the fiscal year ending September 30, 1992.

SECTION 11. All encumbered balances of a previous fiscal year appropriation other than the exclusions authorized by the Code of Alabama 1975, as amended, Section 41-4-93, shall lapse on September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the ASETF or earmarked fund from which the appropriation or appropriations were made.

SECTION 12. That, if any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

SECTION 13. This Act shall become effective on October 1, 1991.

Approved as to all items except those specifically disapproved and stricken out; where applicable, funds totals throughout this bill have been adjusted in the same manner to reflect the items so disapproved.

Date: August 8, 1991

Time: 7:20 P.M.